

Justice 2030 – The Aging Population

February 2019

The Criminal Justice Alliance (CJA) is a coalition of over 150 organisations – including charities, voluntary sector service providers, research institutions and staff associations – working across the criminal justice pathway. The Alliance works to achieve a fairer and more effective criminal justice system which is safe, smart, person-centred, restorative and trusted.

This briefing is the result of a round table event organised by the CJA and Ministry of Justice for a group of CJA members to discuss the challenges facing the justice system created by the aging population. Attendees were asked to focus on two key questions:

- *What are the unique needs of older people involved in the CJS?*
- *What changes could we consider over the longer term to ensure the needs of this group are better met?*

This response summarises the contributions made by attendees for the Justice 2030 strategy team to consider in greater detail. The CJA members in attendance were: abandofbrothers, Change Grow Live, Circles South East, Circles UK, Clean Sheet, Fine Cell Work, Mental Health Foundation, Music in Prisons, Nacro, Prison Advice and Care Trust, Prisoners' Advice Service, Prison Reform Trust, Quakers Crime Community and Justice, RECOOP, Restore Support Network, Shannon Trust and Step Together Volunteering.

As the majority of attendees work specifically with older people in prison and on probation, this subject was the central part of the discussion. The latest statistics show the proportion of prisoners aged over 50 has increased from seven per cent in 2002 to 16 per cent in March 2018.¹ Looking ahead, the older prisoner population is projected to grow even further from 13,636 as at September 2018² to 14,800 by the end of June 2021, including a projected growth in the over 70s to 2,100.³ They are the fastest growing age demographic in prisons and the only age group to double in size over the last decade⁴. These statistics underline the urgency with which the Ministry of Justice needs to take action to prepare for and ameliorate the negative impacts of this in the future.

Attendees were keen to highlight that there is a great deal of literature reviewing the needs of older people in prison and after release (see p.5 Useful Reading), and urged the Justice 2030 team to use that as a starting point. They would like to see the Ministry of Justice prioritise the implementation of recommendations set out in the Justice Select Committee Report (2013-14) and the Prison and Probation Ombudsman Report (2017), as well as effectively monitoring the implementation of the HMPPS New Model for Operational Delivery for older prisoners and Public Health England's Productive Healthy Aging Population Programme.

¹ Sturge, G. (2018) UK Prison Population Statistics, Briefing Paper no: CBP-04334, House of Commons Library

² <https://data.justice.gov.uk/prisons> Accessed 05/02/2019

³ MOJ (2018) Prison Population Projections 2018 to 2023, England & Wales, Online: www.assets.publishing.service.gov.uk

⁴ Public Health England Health and Justice Annual Review 2017/18

Key recommendations

The need for a national strategy

- The prison estate is largely unfit for purpose in addressing the needs of older prisoners and enabling them to access the facilities and services they require. Given the projections for the increased older prison population, a national cross-departmental strategy for older people in the criminal justice system is required to help plan for the future and reduce the number of older people in prison. This should involve seeking the views and suggestions of older people themselves.

Sentencing guidance

- Given the lower risk posed by many older people who have committed crimes, attendees suggested that more needed to be done to ensure sentencing guidance takes into consideration to a greater degree the negative impact a custodial sentence can have on an older persons physical and mental health.

Alternatives to custody

- There is a need to consider how community sentences and supervision, including the use of electronic monitoring, could provide greater rehabilitative opportunities, whilst also protecting the public. The Ministry of Justice, particularly at this time of reviewing probation, should consider how community-based sentencing options could be made to work better for older people and increase judicial confidence in using them as an alternative to custody.

Prison design

- The needs of older prisoners should be included in any future prison design. Thought should be given to exploring a 'secure care home' or 'half way house', model of custody, to meet the specific needs of older people.

Joined-up commissioning

- Many older people lack access to effective social care in prison and after release. Attendees gave examples of where this led to a lack of humane treatment. Attendees suggested that a joined-up commissioning model between the NHS, local authority, the voluntary sector and the justice system is needed to meet older people's holistic needs.

Training and support

- Many attendees felt that older prisoners' mental health needs, especially around dementia, are not currently well understood by staff and that training should be improved. There were concerns that prisoners were taking on informal social care roles without adequate training or supervision. Properly trained 'buddies' could be introduced, but only with adequate support.

End of life care

- In 2016, 189 older prisoners died in custody, which represents over half of all deaths in prisons. With the vast majority of these deaths being due to natural causes, attendees felt that greater consideration needed to be paid to end of life care and the use of compassionate grounds for release in such circumstances.

1. Health and social care

Up to 90% of older prisoners have at least one moderate or severe health condition, with more than 50% having three or more⁵. Older people in prison often having morbidity rates and functional abilities similar to peers in the community 10 years their senior⁶. Attendees mentioned that older prisoners tend to be relatively undemanding and are more likely to 'suffer in silence' than younger prisoners. A reluctance to speak out about health problems can be due to fear of bullying or stigma, difficulties in communication, mistrust of the regime or a stoic attitude, particularly towards mental health problems such as depression.

Older prisoners are entitled to the same social care as their counterparts in the community.⁷ More than 80 per cent have long-standing illnesses or disabilities, but attendees noted that there is currently a lack of adequate provision for essential social care for older prisoners and confusion about who should be providing it. The failure to connect community social care with healthcare in prisons has a tangible and negative impact on the health outcomes of older people. Leaving prison can further disrupt any 'continuity of care' if adequate provision is not made on release.

Particular needs highlighted by attendees included mobility and sight issues, incontinence problems, lack of ability to wash themselves, mobility concerns and unrecognised mental health issues. It was felt that these needs should be taken into consideration to a greater degree when sentencing given the exacerbating impact custody can have on an older person's physical and mental health.

Over half of older prisoners suffer from a mental health disorder and 30 per cent have a diagnosis of depression.⁸ Older prisoners suffer from a 'double disadvantage', in that they have more complex health needs compared to their peers in the community and younger adults in prison. According to one estimate, 85 per cent of elderly male prisoners (aged 60 and above) had one or more major illnesses reported in their medical records.⁹

Attendees highlighted that older prisoners were often very keen to maintain their independence and that provision of resources and support to enable them to do this is beneficial in the long-term as they are likely to have improved physical and mental health. There were concerns raised that prisoners were having to provide informal care without adequate training, support or supervision. A more formal buddy scheme could help ensure this support is given.

Attendees also raised the issue of end of life care in prisons and the need to find ways for people to have more dignified deaths in prison. It was suggested that palliative care suites are one such way that more effective care can be provided within prison, but the availability of such provision is not universal. Greater consideration could also be given to release on temporary licence on compassionate grounds at the end of life. Attendees commented that the impact on staff, other prisoners and prisoners' families can also be traumatic in these situations where proper end of life care is not available.

Attendees raised the suggestion that there needs to be increased training and support for staff on dementia¹⁰ and other issues affecting older people, and that OMIC keyworkers in

⁵ MOJ 2018-Model Operational Delivery – Older Prisoners

⁶ Public Health England Health and Justice Annual Review 2017/18.

⁷ www.ageuk.org.uk Supporting Health & Wellbeing

⁸ www.recoop.org.uk Health

⁹ Omolade, S. (2014) Analytical Summary: The Needs & Characteristics of Older Prisoners, MOJ

¹⁰ Moll, A. (2013) Losing Track of Time. Dementia and the aging prison population. Mental Health Foundation.

particular could benefit from this. Recommendations set out in a report by The Mental Health Foundation include:

- Routine dementia screenings for older prisoners
- Dementia awareness training for security officers
- Appointment of a designated lead for older prisoners in the health care team
- Utilise the expertise of specialist external agencies
- Promote information sharing and adopt clear procedures
- Clear referral processes
- Establish an online forum to facilitate dissemination of good practice
- Low cost modifications to prison living environments

However, attendees also felt that specialist models of custody or community sentences for older people would be preferable to ensure specialist staff were available to meet their needs, particularly for those with more severe or complex health and social care needs.

To measure the success of measures taken, attendees suggested the Justice 2030 team refer to the Public Health England Health and Justice Review. This provides annual statistics on the older prisoner population.

2. Prison regime and design

Attendees highlighted that older prisoners, particularly when they retire or are unable to work for other reasons, can find themselves with little to do and are likely to remain in their cells for much of the day. This can have a negative impact on their mental and physical health. It is important that they have a regime that allows them to be as active and productive as possible. They suggested that access to social groups can combat this by encouraging cognitive skills through activities such as quizzes and talks, arts and physical activity.¹¹ An example was given of HMP Hollesley Bay which has a specific older prisoner unit which included gardening activities. Attendees highlighted that older prisoners can have difficulties when information about activities is printed in a small font.

Older prisoners are less likely to report needing help either for work-related skills (15 per cent compared to 40 per cent of younger prisoners) or help with finding a job after release (20 per cent compared to 50 per cent of younger prisoners), as many older prisoners may be approaching retirement age or have already passed it.¹² Therefore attendees argued that governors should use their new education commissioning powers to ensure suitable provision for this group of learners.

Attendees highlighted that those who cannot work earn less than working prisoners for essentials such as toiletries and phone calls. Attendees suggested that the unemployed prison pay for older prisoners be evaluated to take into account the basic amount one needs for essentials and for items to support their health, wellbeing and independence. It was also suggested that the Incentive and Earned Privilege Scheme should offer greater equality to older people.

Attendees also highlighted the 'digital divide' and the need to ensure older prisoners can use day to day technology upon release for activities such as filling out online benefit applications, accessing housing, online banking and other applications.

Attendees also discussed the lack of suitable prison allocation for older prisoners and suggested a 'Locate Flat' national policy where prisons are required to hold older prisoners on the ground floor and adapt the physical environment of the prison to make basic living for older prisoners feasible, for example by installing wheelchair ramps and lifts.

¹¹ www.ageuk.org.uk Theme 1: Time Out of Cell

¹² Ibid

3. Resettlement

As many as a third of prisoners lose their housing on imprisonment and more than three quarters of prisoners who reported being homeless before entering custody were reconvicted within a year of release (compared with 49 per cent who were not homeless).¹³ The most likely initial destination for older people leaving prison who have served long sentences is Approved Premises. Attendees highlighted that these premises are rarely able to adequately meet the needs of older people, particularly if they are disabled.

Another barrier to securing suitable accommodation is due to the nature of some older prisoners' offences. Very often, local authorities and private housing agencies also have blanket rules that they will not accept people convicted of a sexual offence.¹⁴ Attendees also highlighted that a lack of suitable accommodation or concerns for their safety can result in older people remaining in custody despite being eligible for parole.

Attendees raised concerns about short sighted cuts to funding for organisations, such as Circles UK, who provide services for people convicted of sexual offences, who are often older people.

There has been an increase in violent crime amongst the over 65 age group and attendees suggested that this could be linked to increased substance misuse and mental health problems. It was suggested that often funding for such services was targeted at young people, and that older people may require different services to meet their specific needs so they can access suitable support and prevent re-offending.

Attendees recognised that volunteering can offer an important opportunity to combat loneliness, and give older prisoners greater sense of self-worth and purpose. Volunteering can also be a useful way for older people to learn how to use modern technology. However, it requires a personalised approach to 'broker' suitable placements. This could build on volunteering done in prison, for example 22 per cent of Shannon Trust peer reading mentors are older people.

Attendees were keen that the new ministerial working group on reducing reoffending look at cross-departmental solutions to addressing older prisoners housing, health and resettlement needs.

4. Family ties and visits

Attendees raised concerns that some older prisoners were primary carers to elderly partners and therefore the person they cared for could experience a decline in their health and wellbeing, and need additional support. Older family members described their difficulties in visiting prison, particularly being wheelchair bound. This included lifts not working and visits being cancelled at the last minute, despite the huge efforts made to travel to the prison with their mobility challenges. They also described the frustration of the person they visit being transferred to a more remote prison. Attendees suggested that greater consideration should be given to making prison visits accessible to older and disabled people and that technology could provide greater means to maintaining family ties through in-cell phones or video conferencing.

¹³ www.reoop.org.uk Accommodation

¹⁴ Justice Committee (2013) Older Prisoners, Fifth Report of session 2013-14

Useful reading

Justice Select Committee Report, Older Prisoners (2013-14)

Learning from PPO investigations: Older Prisoners (2017)

The needs and characteristics of older prisoners: Results from the Surveying Prisoner Crime Reduction (SPCR) survey, S. Omalade (Ministry of Justice, 2014)

Prison Population Projections 2018 to 2023, England and Wales (Ministry of Justice, 2018)

UK Prison Population Statistics, G. Sturge (House of Commons Library, 2018)

MOJ 2018-Model Operational Delivery – Older Prisoners

Supporting older people in prison: ideas for practice (Age UK, 2011)

Good practice guide: Working with older prisoners (RECOOP)

Good Practice Guide: approved premises (RECOOP)

Losing Track of Time. Dementia and the aging prison population. Mental Health Foundation. A. Moll (2013)

Public Health England Health and Justice Review 2017/18

For further information contact Peter Keeling, Policy Officer, on 0203 176 1153 Peter.Keeling@criminaljusticealliance.org.uk. This response does not reflect the individual policy position of any member organisation of the CJA.