

Written evidence from the Centre for Crime and Justice Studies, in collaboration with Justice Episteme (PPP0016)

1. Introduction

- 1.1. The Centre for Crime and Justice Studies is an independent educational charity that advances public understanding of crime, criminal justice and social harm. Through partnership and coalition-building, advocacy and research, we work to inspire social justice solutions to the problems society faces, so that many responses that criminalise and punish are no longer required.
- 1.2. Justice Episteme offers analytical services to the criminal justice sector and related health and social services. It uses scientific, quantitative methods and emphasises whole system approaches using simulation, among other techniques, to help understand the operation of justice systems and to explore the impact of policy and practice reforms. In particular it has developed a computer based simulation that is capable of assessing the impact of different policy scenarios, sentencing reforms or practice reforms, and which has been used to inform the analysis and comment in this evidence to the Committee. More detail about methodology and examples of policy analysis can be found at www.justice-episteme.com.

2. Summary

- 2.1. In this submission we provide an analysis of the historical trajectory of the custodial population from 2003, and a projection for the period to 2022 and beyond. The analysis includes the main occupancy categories: long, medium and short determinate sentences, indeterminate sentences and remand. We estimate that the prison population will peak at 90,000 (+/- 1700) at around 2020.
- 2.2. We argue, along with many others, that the current and projected levels of the custodial population are unsustainable. The prison estate is poorly funded –and that is unlikely to change – and prison environments are becoming increasingly unsafe for prisoners and staff. A systematic approach is needed, identifying short term measures and longer term initiatives. This needs to be a whole system approach, which considers the prison system as part of the broader framework of criminal justice and other agencies whose work and outcomes can have an impact on its size.

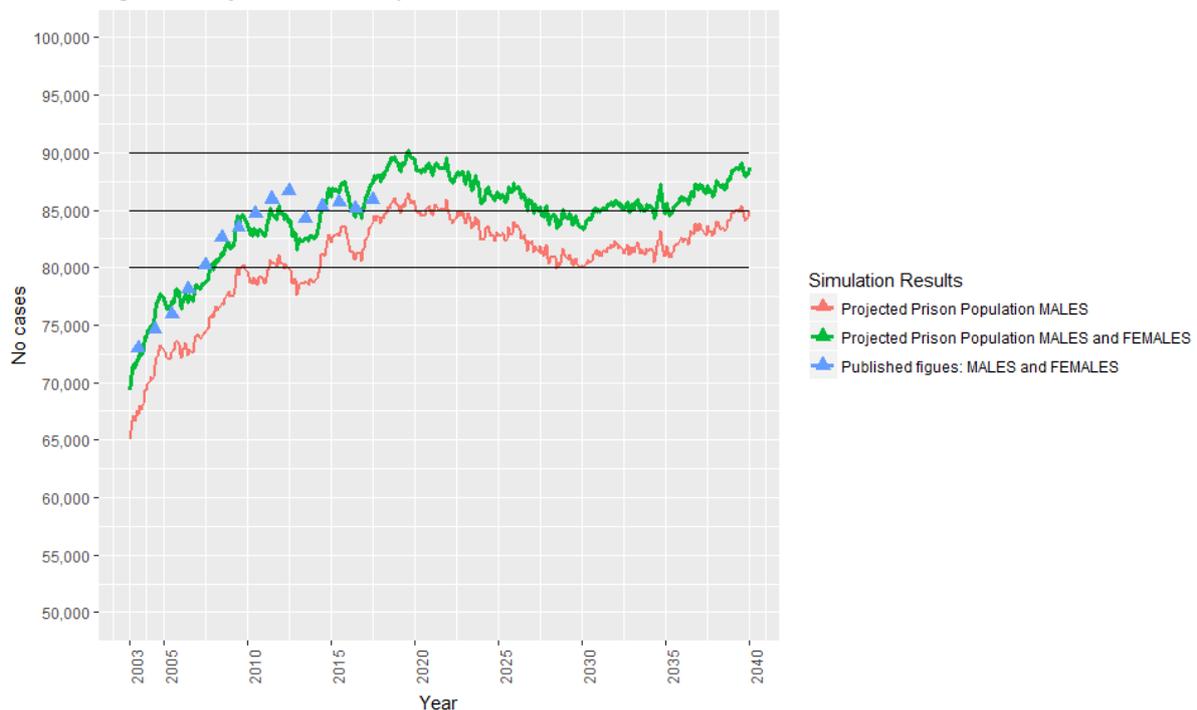
3. The current and projected make-up of the sentenced and unsentenced prison population in England and Wales up to 2022

- 3.1. Figure one provides an analysis of the historical and projected future prison population, male and female, together with annual published figures by the Ministry of Justice (MoJ). The unsentenced group is covered in the following question.
- 3.2. The projected prison population, according to the simulation, closely tracks the actual custody figures to 2017, with differences generally less than five percent.

3.3. Assuming no change to current policies or sentencing practice, we project that the prison population it will grow over the period up to 2022 – to around 90,000¹ – then fall back to around 85,000 thereafter until 2030. This trend post 2022 is due in large part to a change in the underlying demographics of the 15-25 age group, which has the highest risk of criminalisation, leading to imprisonment.

3.4. This trend applies to both males and females, with females representing around five percent of the total.

Figure 1. Projected Prison Population to 2040



4. Factors behind the current size and make-up of the prison population

4.1. From the early 1990s, the prison population in England and Wales embarked on a sustained rise. This was the product of a series of political and policy choices, by successive governments, relating to, among other things, sentencing policy, police priorities and a wider array of social and economic policies.

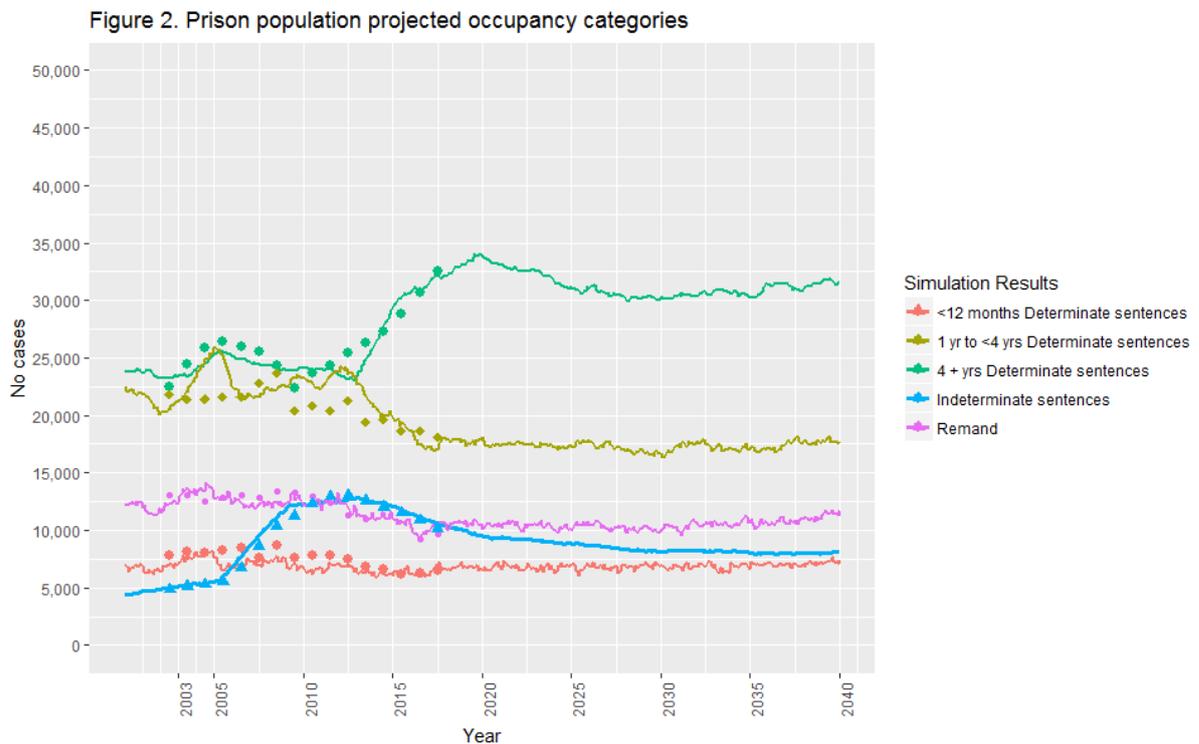
4.2. In relation to social and economic policies, it has long been recognised that prisoners disproportionately come from poorer and more disadvantaged backgrounds. As the former Prime Minister, David Cameron, said in an important speech in February 2016, ‘the prison population draws mostly from the ranks of those whose life chances were shot to pieces from the start’.

4.3. A 2012 report by the Centre for Crime and Justice Studies – *Reducing the numbers in custody: looking beyond criminal justice solutions* – highlighted the relationship between income inequality and prison population rates. Across a range of advanced

¹95% Confidence intervals are +/- 1700

industrial economics, countries with lower rates of income equality tend to have lower imprisonment rates. Countries with higher rates of income inequality tend to have higher imprisonment rates. The report also pointed to evidence that countries with more generous social security safety nets typically have lower rates of imprisonment. Countries with less generous social security safety nets typically have higher rates of imprisonment.

- 4.4. Social and economic policies exercise a strong underlying influence on prison populations. A range of criminal justice policies and practices – including the underlying crime rate; police arrest rates; prosecution and sentencing decisions – exercise a range of larger and smaller effects. The reduction in the number of police arrests over recent years, for instance, has probably been a significant factor in the decline in the number of children and young adults in custody.
- 4.5. In terms of the make-up of the current prison population, figure two provides a breakdown of the population projections in figure one, compared to published custody statistics by the MoJ in 2017. It covers: Long determinate sentences (4+ years); Medium determinate sentences, between 12 months to less than 4 years; Short determinate sentences, less than 12 months; Remand; Indeterminate sentences: life and the indefinite Imprisonment for Public Protection (IPP) sentence.



- 4.6. Between 2010 and 2017 the number of those on long (4+ years) sentences increased substantially: to 32,000 from around 24,000. This ‘stock’ is projected to peak at around 2020 and to start to decline somewhat from 2022. Being a stock, it is an accumulation of the flows, in and out of this category, approaching equilibrium from 2017/18. The capacity of this category to grow is limited by the flow of serious cases,

which has not changed significantly over the past few years. The increase between 2010 and 2017 reflects the trend of longer sentences being awarded for more serious offences. The average determinate sentence has increased from 16 months in 2005 to just under 20 months in 2015. As noted earlier the projection assumes no further increases in sentence lengths, for which there does not appear, at present, to be pressure.

- 4.7. The change in the group of those serving medium length sentences (more than 12 months and less than 4 years) is of opposite direction, reducing from around 23,000 to 17,000. In part this is a reflection of cases being ‘pulled up’ into the long sentence category.
- 4.8. The population pattern of those on indeterminate sentences reflects the introduction of the IPP sentence in the Criminal Justice Act 2003, followed by restrictions in the types of cases that could be sentenced to IPP in the Criminal Justice and Immigration Act 2008, and abolition in the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The number of IPP sentences is progressively reducing as the Parole Board releases these prisoners to probation supervision in the community under licence.
- 4.9. The pattern of change for those in the short sentence and remand categories is more modest with a gradual reduction from high values in 2005 to around 6,000 and 10,000 respectively.

5. The implications of the likely rise in the population for the resources required to manage prisons safely and effectively

- 5.1. It is important, when considering the prison population, that the Justice Committee does not fall into a fatalism of assuming that the only way is up. In November 2017, the Justice Secretary told the Parole Board that prison ‘should be a last resort’ and that ‘I want to see the prison population come down’. These remarks built on similar statements he made earlier this year. Other senior figures who have recently advocated for a reduction in the prison population include the former Justice Secretary, Ken Clarke; the current Chair of the Justice Committee, Robert Neill; and the former Chief Inspector of Prisons, Lord Ramsbotham. In December 2016, a letter jointly signed by Ken Clarke; the former Deputy Prime Minister Nick Clegg and the former Home Secretary Jackie Smith called for the prison population to be reduced over time to 45,000. Failure to do so, they added, would only prolong the prisons crisis and would ‘do untold damage to wider society’.
- 5.2. The prisons crisis is the source of great harm: for prisoners, their families and for staff. Prisons do not provide an environment conducive to rehabilitation. In his latest annual report, the Chief Inspector of Prisons, Peter Clarke, noted that ‘too many of our prisons had become unacceptably violent and dangerous places’ and that the situation had continued to deteriorate. For ‘too many prisoners’, he added, ‘the state is failing in its duty’. Assaults on staff, he noted, had risen by 38 percent in the 12 months to December 2016, to 6,844 incidents.

5.3. We would therefore urge the Justice Committee to consider practical steps the government might take to reduce the prison population as a key means of tackling the current prisons crisis. Two *illustrative* examples, related to the implementation of sentences, and drawn from modelling by the Justice Episteme, are:

5.3.1. Selectively diverting to suspended prison sentences, low risk offenders who would otherwise receive short custodial sentences (<12 months), would be likely to reduce the prison population by up to 3,000 places; and receptions to prison following sentence by around 20,000 (http://www.justice-episteme.com/Short_Prison_Sentences.html).

5.3.2. Using risk based selection criteria to reduce the time spent in custody of lower risk offenders sentenced between 1 to 10 years, supported by electronically monitored community supervision, could reduce demand for prison places by up to 2,500 places (http://www.justice-episteme.com/Electronic_Monitoring.html).

5.4. The options to be considered should not be restricted to sentencing. We think, and without underestimating the challenge of gaining cross agency traction, early diversion of suitable cases would be likely to lead to durable reductions in prison use. Indeed, among the interventions intended to reduce recidivism, diversion schemes for young offenders are among the most effective.² Making explicit the role of non-justice agencies and quantifying the benefits across justice, health and social care in particular, should form part of future spending reviews.

6. The impact of reducing reoffending by existing prisoners and those under the supervision of probation services on the size and make-up of the prison population

6.1. The MoJ currently places great weight on the efficacy of reducing reoffending as a means of reducing the prison population and addressing the crisis in our prisons.

6.2. Experience with interventions over the past 20 years is not, generally speaking, encouraging. We do not think that reducing reoffending can be relied, on its own, to make rapid changes to the size of the prison population, though plainly it needs to form part of a package of measures. We believe that there are two reasons for this:

6.2.1. The efficacy of interventions, even under ideal conditions, is comparatively low with effect sizes in the small to moderate range, with some close to zero.³

6.2.2. The consistent delivery and the fidelity of programmes can easily be compromised by the difficult prison delivery environment. Continuity to community based interventions on release also remains problematic, with the

²Review by James McGuire, Reducing Personal Violence, Table 15.2, in *The Neurobiological Basis of Violence, Science and Rehabilitation*, OUP, 2009

³Review by James McGuire, *ibid*

ambitions of the Through The Gate reforms still to be achieved.

- 6.3. In order to gauge the potential impact of the interventions any analysis needs to establish, for each programme, the size of the target group and realistic assessment of the likely effect. We have not seen such an analysis.
- 6.4. Given the current state of the prison system, the likelihood is that the crisis will continue for the foreseeable future. Also given the concerning state of the probation service, it also seems highly unlikely that the MoJ's modest targets for reductions of reoffending will be realised.

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