

# **Criminal Justice System items to note**

## **Meeting on 12.11.24**

### **1. Statistics**

#### **1.1 Prison numbers** (to end September) *Quarterly Offender Management Statistics*

Prison population down 1%, largely due to early releases, but the unrelenting pressure on the system is clear from almost every major dataset. The key pressure points are:

- 18,478 first receptions April-June 2024, a rise of 6% on the same period in 2023
- 9,782 licenced recalls in the second quarter of this year, a 44% increase on 2023
- 17,662 on remand, a record high, driven by public order offences associated with the riots
- 64,625 adjudication outcomes, 30% higher than last year, with 80% rise in additional days

#### **1.2 Crime trends** *Office for National Statistics report into Crime for the year ending June 2024*

The headline findings are:

- Crime has generally decreased over the last 10 years with some notable exceptions eg sexual assault. There were an estimated 9.2m incidents including theft, robbery, criminal damage, fraud, computer misuse and violence with or without injury - 18% lower cf 2017
- 10% increase in the number of incidents particularly in robbery, violence with injury and consumer and retail fraud (up 19%)
- Gradual decrease in domestic abuse (2.2m victims) but increase in sexual assault, stalking (1.1m victims) and harassment (4.m victims)
- Homicides decreased slightly, offences involving knives or sharp instruments increased by 4%, firearms decreased by 5%, robbery increased by 6%, and shoplifting rose by 29%

#### **1.3 MoJ statistics on the number of people in prison accessing education**

2023/24 results include:

- Most initially tested were at Entry Levels 1-3 (73% Maths and 71% English). Entry Level 3 is the literacy and numeracy level you would expect of somebody leaving primary school
- Within this, 17% (8,000) were at or below Entry Level 1 for literacy ie aged 5-7
- 49,965 participated in a prison course and 45,289 made measurable progress

These results are similar to last year's. There has been a change in methodology used, with the removal of private prisons, prisons in Wales and establishments from the youth estate. The education statistics tell a very familiar story. It's unarguable that education should be a priority for prisons. Literacy and numeracy levels are far lower than they should be and are a barrier to successful engagement with the prison regime and, in due course, with the job market. Yet the number of people participating is still too low and recovery post-Covid has slowed. With the new education contracts delayed until at least the latter half of next year, and much-needed additional funding yet to emerge, it is difficult to know what can change this narrative.

#### **1.4 The major developments and challenges in prison systems around the world** *Penal Reform International Global Prison Trends 2024 report*

This identifies key common issues such as prison overcrowding, the mental health crisis, corruption, and the growing use of digital technologies. Facts and figures include:

- There are nearly 11.5m people in prison around the world (10.5m men). Male prisoners increased by 22% over the last 20 yrs while the number of women shot up by 60%
- One in three people in prison around the world are in pre-trial detention, presumed innocent
- Known rates of older persons in prison vary from 0.5% in Montenegro to 35% in Japan
- Children in custody are increasing c 261,200, of whom 19,000 live with their guardian in prison (typically their mother). The UN recommends 14 years as the minimum age of criminal responsibility. The global average is 11.3 years, and in England and Wales it is 10 years
- Racial, ethnic and indigenous minorities are disproportionately arrested, prosecuted and imprisoned across the globe
- Overcrowding is also a global issue. Only one in three prison systems operates within capacity

- Globally, prison health care systems are struggling with much higher rates of HIV, hepatitis and TB plus mental health. A significant proportion experience neurodivergent conditions
- Many prison systems face challenges in recruiting and retaining staff due to working conditions, rural locations and stigma associated with prison work

Abolition of capital punishment continues but 2023 marked the highest recorded number of executions in nearly a decade (primarily driven by Iran). At least half a million people are serving formal life sentences globally, and at least 64 countries have sentences that are 'de facto' life. Whole life sentences are a growing trend in England and Wales

## **1.5 Impact of the Riots**

### **Numbers sentenced**

Hundreds of people who took part in violent disorder during the summer have already been jailed. The rapid action taken across the justice system by police, prosecutors and those working in courts has meant that 388 people have been jailed to date – 47.5% of all those who have appeared in court so far. In total, over 800 people who took part have now had an initial court hearing as part of a collective effort across CJ agencies. Of these, almost 500 cases have been completed.

## **2. CJS agencies**

### **2.1 Courts**

#### ***Magistrates powers Announcement by the Lord Chancellor***

A step to resolve inherited long-term prison capacity issues, is that new powers are to be given to magistrates to send offenders to prison for up to one year for a single offence – doubling their current powers. This will help to tackle the record remand population and address the Crown Court backlog, also at a historic high. Magistrates and legal advisers will be fully trained in these new measures by the Judicial College in order to deliver longer sentences effectively. The previous government extended sentencing powers in May 2022 but deactivated them in March 2023.

### **2.2. Police**

#### ***2.2.1 Pre-charge bail and Release Under Investigation (RUI) Professor Anthea Hucklesby***

An examination of their use, effectiveness and impact on suspects' and victims' rights and confidence in the CJS has been undertaken. Key findings include:

- Pre-charge bail and Release Under Investigation (RUI) were often treated as administrative processes rather than decisions impacting the lives of suspects and victims
- Investigation teams led on, and made most of the decisions thus removing, bypassing or reducing most of the PACE checks and balances
- Recent changes to the law resulted in an increased use of bail (75%) and a reduction in RUI
- Conditions were frequently attached to bail, imposed formulaically based on the type of offence
- A culture of inaction existed for alleged breaches of conditions leaving victims vulnerable and reducing their trust and confidence in the police and the wider CJS
- The average time spent on bail or RUI has increased significantly (102 cf 46/47 days pre-2017)
- 31% of cases were charged. 65% ended in no further action
- Victims were generally informed rather than consulted about police decisions relating to bail.

#### ***2.2.2 Health diversion MoJ analysis of Police use of Out of Court Disposals to support adults with health vulnerabilities***

The six main categories of vulnerabilities are drug use, alcohol use, physical health, mental health, neurodiversity, and learning disabilities. Overall, significant variation was found across forces in their OOC processes and in how well-developed and well-established these are. They were under-used in many areas mainly due to a lack of appropriate interventions available, and limited use was made of vulnerability assessments or input from Liaison and Diversion services at the frontline operational level. It was not possible to evaluate the effectiveness of disposals due to a lack of meaningful data.

## **2.3 Prisons**

### **2.3.1 HMIP Annual Report 2023/24**

The main findings of the report are that the combination of chronic under-staffing and an ever-growing prison population means that most establishments are running very impoverished regimes with little opportunity to attend decent work or education classes. Other details include:

- *Private providers* The first contracted prison to pass from one provider to another was shambolic due to a failure to recruit enough staff to replace those who left
- *Leadership* There are concerns about the pipeline of new governors, with some of the most challenging prisons getting very few applicants. There continued to be a lack of professional development for leaders, and training for custodial managers
- *Deterioration of immigration detention* There was a worrying rise in disturbances as the population grew, and at Yarl's Wood, increasingly prison-like conditions were found, and the safety of detainees and their access to activities had deteriorated significantly
- *Women's prisons* Both open prisons inspected were positive and found to be an effective bridge back into the community, some of whom were coming to the end of long sentences
- *Recruitment* This continued to be a struggle in some parts of the country with two prisons reliant on officers being bussed in from the north of England to be able to run a regime. Officers were often very inexperienced and the number of staff who left within the first two years continued to be worryingly high
- *Deteriorating living conditions* Inspectors raised concerns about living conditions at 16 adult men's prisons and found a worrying picture of deterioration. Although more predictable at Victorian prisons, there had been a significant decline at several open prisons, and two high security prisons. Far too many buildings and systems needed upgrading, and the continued existence of night sanitation in some prisons was unacceptable. In too many establishments, leaders had failed to set high enough standards for prisoners and staff
- *Released homeless* Inspectors continued to find prisons struggling to provide accommodation support for prisoners
- *Drift and decline in conditions for children* The Youth Custody Service spent £197m caring for around 500 children – significantly more than £300,000 per child. Yet inspectors often found wasted resources as teachers, health care staff and resettlement caseworkers were unable to access children due to shortages of frontline operational staff or meeting rooms. There was a lack of accountability for failures, despite large senior teams
- *Court Custody* Various improvements had been made but provision for neurodivergent detainees needed improvement, and far too few court custody facilities were accessible for those with disabilities

### **2.3.2 Drugs Greater Manchester Police**

Gangs are headhunting highly skilled drone pilots to make Amazon Prime-style deliveries of drugs and weapons to prison cell windows. Organised crime groups were recruiting specialist aircraft operators to fly the highly lucrative missions, sometimes transporting several kilograms of contraband at a time, and it was a “constant battle” for authorities to keep up with smuggling methods. “Drone technology is getting bigger and better so the payloads are getting bigger”. Drones are believed to be the favoured method to transport banned items into jails. Organised crime gangs are using them not just in their own area. “There is a network around the country. These people aren't just involved in drone incursions in prisons in Greater Manchester – they are connected to other prisons around the country.” Police recently recovered a drone carrying a “huge” 7kg payload, containing mobile phones, drugs and tobacco. Drugs usually fetch between three and five times their street value in prison, making smuggling them in a lucrative business.

### **2.3.3 Prison estate conditions**

#### **2.3.3.1 The State of the Estate Report Extract from an article by Rob Allen**

Last year the Prison Service conducted a survey of conditions in each of the public sector prisons and a sample of the private ones. Earlier this year, the then Prisons Minister told the Justice Committee that the report on the State of the Estate would be completed by the end of that month. It has not however been made public. Following a FOI request, the MoJ argued that

disclosing the survey report would prejudice their commercial interests and impinge on the process of formulating policy. The newly formed Justice Committee should press the new Prisons Minister to publish at least a summary of the report not least because the MoJ accept in their response that releasing it “could help inform and further the public debate on this subject matter”. That’s important because addressing the scale and nature of the problems facing existing prisons should be just as urgent a challenge as the purported need to create future custodial places.

#### **2.3.3.2 Fire Safety Home Office data 2023/24**

Fire and Rescue Services attended 1,892 incidents in prisons and young offender units, up 82% on last year. The number of fires in cells rose from 1,410 in 2022 to 2,287 in 2023, up 62%. Of concern is the fact that the Home Office data shows that in more than four out of five incidents, there was no safety system in place eg sprinklers or misting. The Prison Service has embarked on a Fire Safety Improvement Programme to increase detection and fire suppression measures in its establishments. In March, 23,500 still lacked automatic fire detection suggesting only 2,500 cells were upgraded in 2023-4. Troublingly, the latest HMPPS annual report also said that “prison capacity pressures have restricted our ability to take places out of use for refurbishment and compliance works”. Some establishments are subject to an enforcement notice, not mentioned in HMIP reports - should fire safety come under their remit? There are practical steps that should be taken to reduce risks eg replacing vaper pens with an ignition-free Safer Vape Pen (apparently the source of approximately 80% of fires set in prisons). Clearer lines of accountability and scrutiny are needed to promote fire safety in prison

#### **2.3.4 Supporting families separated by prison Resource to support families – Jami’an**

Jami’an in Arabic translates to ‘all together’. This resource provides basic information on how to find out where a loved one is, how to contact them and arrange visits, and send money and parcels. It has been created at a time when Muslims make up 18% of the prison population (cf 6.5% of the general population) – a record high. This can cause a lot of stress and anxiety for families. It’s natural to feel overwhelmed trying to navigate the legal and prison system, especially when also dealing with the sense of loss. When individuals come into contact with the CJS so do their families and loved ones. We’ve heard from many Muslims that this is not always a positive experience and they have not known where to ask for help or were reluctant to challenge a discriminatory system. The resource was developed in consultation with experts including prison chaplains & community Imams to respond to the challenges families face & is intended to give people confidence to understand and engage with the prison system, especially where there is a lack of trust. The resource is grounded in Islam’s approach to justice, rooted in understanding the context in which any harm takes place, focusing on the repair of relations without causing more harm.

#### **2.3.5 Purposeful prisons Prison Inspectorate’s annual report**

This highlighted ongoing failings in purposeful activity with 30 out of 32 closed prisons inspected in 2023-24 being poor or not sufficiently good. More than two thirds of prisoners were spending most of their days in their cells with little to occupy them. This is not a new finding and has essentially been the case across most of the prison estate since the pandemic restrictions. Prisoners continue to describe the harmful effects of long days spent locked in their cells on their well-being which correlated with the likelihood of them reoffending, suggesting that purposeless prisons are not only harmful for prisoners, but could also extend to wider society.

Key findings included:

- 24% spent <2 hours unlocked on a typical weekday and 44% <6 hours. In total more than two-thirds of prisoners were spending most of their days in their cells with little to occupy them. Only 7% reported being unlocked for more than 10 hours a day, HMIP’s expectation
- Restrictions were even worse at weekends, with 37% out of their cells for less than two hours
- Poor time out of cell is particularly acute in men’s reception prisons (50% spent more than 22 hours in their cells on a typical weekday, 72% at weekends)
- *Impact on health* When prisoners get minimal time out of their cells, they inevitably have less access to activities important in supporting their physical and mental well-being eg use of the

gym, exercise in the fresh air and visiting the prison library. Only 33% reported that they were able to lead a healthy lifestyle

- *Impact on relationships with staff* Time out of cell also impacted on prisoners' perception of staff ie less likely to report feeling respected. There was simply not enough time for staff to build meaningful, supportive relationships with the prisoners on their wings, a concern given the important role staff ought to play in helping prisoners to make positive changes in their lives
- *Inconsistency* A common cause of frustration for prisoners was the lack of consistency with the daily regime ie anxiety as a result of unpredictable unlock and lock-up times which could further curtail time out of cell for work, education or daily domestic tasks.

Whilst not a new finding, it is a clear indictment of the state of the prison service that most prisoners are experiencing a regime that has more in common with living through a pandemic than in normal times. The findings show that the main function of prisons in 2024 is essentially to warehouse people and not to provide any form of help to give a better chance of people moving away from a life of crime on release.

### **2.3.6 Prison food** *Extract from a blog*

Complaints about food are “a constant refrain” when IMB Monitors visit prisons and there are increasingly widespread complaints regarding the small size of portions, insufficient food, hygiene concerns and poor quality. In one prison, lunch was served to the prisoner's door as early as 10.30am. The Chief Inspector's latest Annual Report, however, failed to mention food, other than to criticise a filthy food trolley. Maslow argues that survival needs must be satisfied before anyone can address matters higher up the hierarchy but in prisons, the challenges of offering safety and security, a sense of connection and of individuality will often act as further barriers to reaching self-actualisation. If Maslow is right, if you're hungry, you'll struggle to reach let alone overcome them. Researchers at Surrey University have called for an increase in the food budget. £2.70 per prisoner per day was spent on food in 2023–2024, a 25% increase from the previous year's budget of £2.16.

### **2.3.7 Teaching prisoners to read** *Extract from Big Issue article*

Shannon Trust, a charity that supports prisoners to help other inmates to read, said 67% of the prison population either can't read at all or read at a level below age 11. It's an issue that can lead to people reoffending when they leave prison, without the hopes of landing a job or being able to sort out bills or any of life's other essentials, or even facing homelessness. An HMIP report warned that a future rise in the number of prisoners leaves little opportunity to focus on this small but crucial element of rehabilitation. “Most jails already fail to give prisoners enough to do and population increases are likely to make things worse. If prisoners leave prison without having learnt the skills and habits that will help them to hold down a job, if they are not being taught to read, if they are being sold drugs without support to break their addiction and if they continue to live in environments in which violence is commonplace, prisons will fail in their duty to prevent future reoffending.” Charities like Shannon Trust are working with the MoJ to fill the gap. Their representatives are visible in over 100 prisons offering two schemes: Turning Pages boosts literacy while Count Me In is designed to improve numeracy. The charity trains prisoners to teach other inmates to read through a one-to-one, peer-led scheme. That means learning can happen anywhere and breaks down the barriers of educational trauma many prisoners may have faced from a classroom setting. Improving literacy will not end the prisons crisis on its own but every tool to prevent reoffending must be used to help prisoners flourish in society when they are released. For prisons to provide the rehabilitation they should, programmes that help boost literacy and numeracy are vital.

### **2.3.8 Older prisoners** *Extract from a report by the Prison Reform Trust “Growing old and dying inside: improving the experiences of older people serving long prison sentences”*

A strategy was first promised more than 3½ years by the last government in response to a House of Commons Justice Committee inquiry on the ageing prison population. The delay now means that the new government is inheriting a significant challenge. In just 20 years the number of people

in prison aged 50+ has nearly trebled (5,000 to almost 15,000 in 2023) ie 1 in 6 people (17%). 6 key themes emerge from the report:

- *Sentencing and adapting to prison life* For many, having already 'lived a life' minimised the feeling of 'missing out' and provided a sense of emotional maturity, which made adapting easier but this could also exacerbate people's sense of loss of autonomy with few opportunities to grieve, and feeling deskilled, disconnected, and institutionalised
- *Relationships outside* Having limited external relationships impacted their motivation for leaving prison, and compounded feelings of loneliness and disconnection. Bereavements of loved ones, fears of being 'deserted' by family members, leaving prison with no friends or family to return to, with some facing the prospect of their own death in prison all featured
- *Purposeful activity* Many felt that education, behavioural programmes, and other activities were focused on the needs of younger people and/or were difficult to access. Some wanted more opportunities to use the skills they had as a way of using their time purposefully, including peer mentoring or teaching roles that could benefit others
- *Relationships inside* Despite wanting to provide support to younger prisoners, the relationship between different age groups in prison could sometimes be strained. Older prisoners wanted a quieter, calmer environment, and to be more compliant, and there was a risk of them becoming vulnerable to intimidation and humiliation around their age-related health needs
- *Health and wellbeing* They wanted more dignity around growing old in prison, particularly in relation to health and social care eg being unnecessarily cuffed when attending hospital visits. They faced a multitude of health concerns and faced barriers in getting the healthcare they required. They felt that their diet, physical space and day-to-day lifestyles (often sedentary and isolated) accelerated the onset of frailty and worsened health outcomes
- *Imagined futures* Many conveyed a sense of 'dying inside' due to the loss of purpose, identity, and relationships. With limited opportunities for connection, meaningful activity or development, with the impact of poor health, some felt hopeless about the future. Others were so worried about what would happen on release they would rather opt to die inside

The findings underline the need for the prison system and its partner agencies in health and social care, to better meet current needs and their legal obligations and ensure that systems are fit for the future. Recommendations include the publication of a national strategy as a matter of urgency, co-sponsored by the Department of Health and Social Care and the Department of Levelling Up, Housing and Communities, and supported by HM Treasury. The support of health and social care commissioners, including integrated care boards and local authorities will also be crucial to the successful implementation of the strategy.

## 2.4 Probation

### ***Working with domestic abuse perpetrators*** Probation Inspectorate's Academic

*Insight: Building choice in domestic abuse perpetrator interventions: reflections on what clients, victims and practitioners need*

Currently the only accredited programme in probation for domestic abuse perpetrators is Building Better Relationships (BBR), despite critical reports raising concerns about the quality of its implementation, unsustainable waiting lists, a less than impressed probation client group about the service received, and a stressed and overstretched workforce. The most critical lesson of previous approaches is that effective work with men who abuse cannot be secured without adequately supporting their partners, but this has not always been heeded. BBR is to be replaced with Building Choices. The authors conclude "There is considerable scope for the development of much better intervention work as a new generation of programmes are introduced in probation, as well as inherent dangers in assuming that an overstretched workforce can find the time, resources and headspace needed to support and change a sizeable population of men who present a serious risk of harm and fatalities."

## 2.5 Youth Justice

### ***2.5.1 YOIs*** Howard League blog

Two reports on children in custody have been published: a review of progress by HMIP on the use of separation in YOIs and a joint report from HMIP and Ofsted on the declining quality of education.

Both reports reiterated that prison is no place for a child. Academic research has shown that each contact a child has with the system drags them deeper into it, leading to more crime. For those currently held in prisons, we have time and again emphasised the need for education, exercise and contact with other people. But these reports have shown that children are being failed across the board. HMIP's review of progress since 2020 showed little has changed with high levels of violence and disorder, and 479 children separated from their peers due to a risk to safety or their own concerns for exceedingly long spans of time (179 instances lasting between 21-100 days and 21 for over 100 days). Some only had a few minutes of access to education and other interventions per day, and some did not leave their cells at all. There is simply no justification for this. Solitary confinement of children has been widely condemned by medics, parliamentarians and children's rights experts. Similarly damning, Ofsted/HMIP's report sets out the steady decline of standards and practice in children's prisons. They found that educational opportunities and quality, work experience, and time out of cell were all decreasing and that children were being allocated to education based on safety rather than ability or needs. According to YOI rules, children ought to receive a minimum of 15 hours of education pw but this is simply not happening. Despite a fall in the numbers of children in custody, and an increase in funding per child, standards of education in YOIs are "worse than they have ever been". In the past decade, HMIP has made 85 recommendation or concerns about time out of cell, but less than a quarter were found to have been achieved. This is simply unacceptable. Rather than providing the productive, rehabilitative regimes that children need to thrive and return to their communities, they are being locked away – often with no meaningful human contact. It is crucial we finally acknowledge that prisons cannot safely hold or care for children, and I hope these damning reports will provide the wake-up call needed for a new government to address the legacy of failure in the youth estate.

### ***2.5.2 Reimagining youth justice Alliance for Youth Justice briefing: Setting the youth justice agenda***

This urged the government to take bold action to reform the YJS by ensuring a safeguarding response to vulnerable children, ending racial injustice, and guaranteeing custody as a last resort. It highlights the complex interrelationship between children's vulnerability, victimisation, and involvement in crime and states that while commendable progress has been made, significant concerns remain. The current division of departmental responsibilities in government leads to vulnerable children being seen in a punitive light, being criminalised rather than safeguarded, and treated as mini adults rather than children. Prison is no place for a child. A lack of vision and direction for the secure estate leaves it lurching from crisis to crisis. There is an urgent need for systemic changes to prevent further harm to children and society, to create a system that promotes social justice and enables all children to reach their full potential. Key recommendations are:

- A Department for Children, led by a Sec of State for Children, to oversee a children's rights strategy
- Rebalance resources away from crisis intervention, policing and punitive action towards investing in communities to work together to support children before needs escalate
- A clear cross-government plan of action to tackle the cumulative impacts of racial discrimination before, during and after children's contact with the justice system.

### ***2.5.3 Scotland's YOIs***

All under-18s have now been removed from Scotland's YOIs and transferred to more child-friendly settings. The change follows suicides of young people while detained and the passage of a new law that bans children being sent to prison. This will free up about 70 places in the prison system. Scotland's chief inspector of prisons previously said sending 16 and 17-year-olds to prison, especially those who had not yet been convicted - was a breach of their human rights. A Bill received Royal Assent this summer. Campaigners have welcomed the move which they say should lead to better outcomes for young people and the director of the CYP Centre for Justice said: "We should be so proud in Scotland that we are taking this child-centred approach and leading the way to our neighbouring countries." However the charity Victim Support Scotland said that while it welcomed the move, it had concerns over victims being "forgotten" as a result and that there could be a "negative impact" on victims from the changes.

### **3. Sentencing**

#### **3.1 Sentencing Review**

The review will be led by a former (Conservative) Lord Chancellor, David Gauke and will follow “3 core principles to ensure a sustainable justice system”:

1. Make sure prison sentences punish serious offenders and protect the public, and there is always the space in prison for the most dangerous offenders
2. Look at what more can be done to encourage offenders to turn their backs on a life of crime, and keep the public safe by reducing reoffending
3. Explore tougher punishments outside of prison to make sure these sentences cut crime while making the best use of taxpayers’ money

Many penal reformers see the review as a chance to re-balance the system, increasing the use of community sentences and reducing the number of women sent to custody (a disproportionate number for relatively minor crimes). The Government has stated its commitment to create 14,000 extra prison places and pledges to outline a 10-year prison capacity strategy “later this year”, confirming its tough on crime approach. The Terms of Reference for the Review will “provide long-term solutions for our justice system” by:

- examining the use and composition of non-custodial sentences, including robust community alternatives to prison and the use of fines
- looking at the role of incentives in sentence management and the powers of the probation service in the administration of sentences in the community
- exploring the use and impact of short custodial sentences (Ministers are interested in proposals to toughen up community orders as an alternative to jail, to reduce the number of offenders in prisons, and scrapping short term prison sentences of less than 6 months)
- reviewing the framework around longer custodial sentences, including the use of minimum sentences, and the range of sentences and maximum penalties available
- looking at the administration of sentences, including the point at which offenders are released from prison, how long they are supervised in the community on licence, recall to prison, and how technology can support this
- considering whether the sentencing framework should be amended to take into account the specific needs or vulnerabilities of specific cohorts such as young adult offenders, older offenders, and women
- considering the approach to sentencing in cases of prolific offenders
- considering specifically sentencing for offences primarily committed against women & girls

They also clarify that the review will not consider IPPs or the administration of it, the use of remand, the youth sentencing framework and Out-of-court resolutions. The timeline is for the review to be completed in full by Spring 2025.

#### **3.2 Joint enterprise Centre for Crime and Justice report: The legal dragnet**

This highlights how the current law on joint enterprise ‘allows and indeed encourages cases to be constructed with the absence of rigour and quality’. This is timed to coincide with a fresh attempt by MPs to reform the joint enterprise legal dragnet, which has seen groups of friends and associates collectively punished for the crimes of an individual. MPs have tabled an Early Day Motion, calling on the Labour government to make good on its pledge, while in opposition, to reform joint enterprise law, with a view to narrowing the wide scope of the current law and to provide a fairer framework for prosecution and sentencing. As a practical first step, MPs are proposing a Law Commission review to develop proposals to narrow the scope of the laws on joint enterprise and establish a fairer sentencing framework for those convicted under joint enterprise.

#### **3.3 A Judicial Critique Howard League for Penal Reform paper**

The most senior former judges in England and Wales have called on the government to reverse the trend of imposing ever longer sentences, warning that radical solutions are needed to address the acute crisis in prisons. They say there is nothing to justify the fact that custodial sentence lengths have approximately doubled over the half-century that they have been involved in the law, and the rise in prison numbers. Legislative changes, such as the introduction of statutory starting points for the minimum terms for murder, have been the main drivers of sentence inflation. Noting



the human but also high financial costs of prison, it recommends that the government should be seeking to reduce to a minimum the amount of public money spent on imprisonment. Reasons for this rise include a lack of confidence in the efficacy of non-custodial sentences for less serious offences; the increase in the requirement for many prisoners to serve two thirds of the sentence before release; and licence conditions now applying for the entirety of the sentence. Recalls during this period of supervision has soared. Despite the downward crime trends, both the number of custodial sentences, and crucially their length, have increased dramatically. The judges argue that the current situation is unsustainable and welcomed the decision of the new government to undertake an urgent independent review of sentencing. They say that sentencing inflation has got so far out of control that it calls for radical solutions, setting out a number of accelerated routes out of custody for people serving lengthy sentences including:

- Urgent and decisive action to safely release all IPPs
- A review of all prisoners serving >10 years at the halfway stage and then at regular intervals
- Reviewing the needs and risk levels of very old prisoners followed by a managed move to a more appropriate secure location if required
- A regular review of minimum terms for people serving indeterminate sentences
- A significant increase in the Open prison estate to facilitate return to work, education and family community for those serving long sentences.

The report calls for “an honest conversation” about what custodial sentences can and cannot achieve, as well as their human and financial costs. It also urges a return to “more modest and proportionate sentences across the board”.

## **4. Other issues**

### **4.1 Domestic Abuse** *Extract from an article by Rajeev Syal, Home affairs editor*

Domestic abuse specialists will be embedded in 999 control rooms from early next year in the first step towards the government’s goal of halving violence against women and girls in a decade. The advisers will make risk assessments on cases involving rape, domestic and sexual abuse claims to ensure that victims are referred to support services as quickly as possible. From November more domestic abusers will be ordered to stay away from their victims and face tougher sanctions if they fail to do so, through the launch of the new Domestic Abuse Protection Order pilot. These will build on powers police already have to legally order abusers to not make contact with, or go within a certain distance of, the victim – but domestic abuse victims are only protected for up to 28 days. The new orders will make it a legal requirement for perpetrators to inform the police of any change in name or address, impose electronic tagging and order assessments for behaviour change programmes. There will also be no maximum duration for these orders which will cover all forms of domestic abuse, including violence, stalking and controlling behaviour, and more agencies will be able to apply for them, not just the police and criminal courts but also family and civil courts, and third parties such as local authorities, charities and social services, with victims also able to apply directly for the order themselves. Breaching one of these new orders will be a criminal offence, punishable by up to five years in prison. In 2020 a 5-year package of measures was launched to make sure offenders of sexual violence are brought to justice and victims are properly supported including fully resourcing specialist rape and serious sexual offences units with dedicated, highly trained prosecutors. In October 2021, two-fifths of police forces did not have specialist rape and serious sexual offence units.

### **4.2 Early Release** *Extract from article by Rajeev Syal, Home affairs editor*

Prisoners freed early to ease overcrowding in jails have not been fitted with electronic tags despite it being a condition of their release. Officials have declined to say how many of the 1,700 prisoners released were not given tracking devices but it is understood to be “hundreds” rather than “dozens”. Whitehall insiders have blamed the security contractor Serco – which was given the contract in October 2023 – for the delays. The chair of the justice select committee questioned why Serco had been given the contract after a previous tagging scandal involving the outsourcing company led to a Serious Fraud Office investigation and a fine for defrauding the taxpayer: “Serco has a long history of poor performance and negligent conduct on tagging contracts and needs to be held to

account by the MoJ. They were given a second chance after being fined £23m for mismanaging previous contracts. It looks as though lessons have not been learned". The national probation officers' union said members have been concerned about Serco's ability to run the contract: "The question is, what work did HMPPS do in advance with Serco to prepare them for the increased demand in tags, and how did Serco respond?" The MoJ stated: "We are holding Serco to account to address delays in fitting some offenders with tags and will apply financial penalties against the company if this is not resolved quickly. This contract was awarded to Serco, following a fair and open process, in October 2023."

### **4.3 IPPs House of Commons statement**

I wish to inform the House of my intention to bring into force the IPP measures in the Act. These will be commenced in a phased approach starting on 1 November 2024, and with all measures commenced by 1 February 2025. Phase 1 includes measures to:

- include a statutory presumption that the IPP licence will be terminated by the Parole Board at the end of the qualifying period (3 years), with strong justification on public protection grounds needed not to terminate the licence
- create a new power to release a recalled IPP offender, without the need for a release decision by the Parole Board
- require the Secretary of State to lay an annual report before Parliament about the steps taken to progress those serving IPP sentences towards a safe release

Phase 2 will commence on 1 February 2025 where the qualifying period for consideration of licence termination, will be 3 years. I want to make progress towards a safe and sustainable release for IPPs without impacting public protection. Commencing these measures is the first step in doing so. I will continue to monitor progress in this area, and the Government plans to consult expert organisations to ensure the right course of action is taken to support those serving IPP sentences.

### **4.4 Prison Reform**

#### **4.4.1 Learning from the Netherlands** *Extract from article by Renate van der Zee*

The Dutch prison population has fallen by more than 40% over the past 20 years and awareness of the harms of harsh sentencing could explain why. James Timpson calls the Netherlands a source of inspiration. What could the Dutch system teach the rest of the world? First, the declining prison population is not actually the result of recent policies by visionary politicians. Much of it is due to changes in reported crime and the nature of crime. While the Dutch don't have a model policy the world can copy, the overall Dutch attitude towards imprisonment could be instructive ie they are much more aware that a stay in prison does more harm than good. Society may be rid of a criminal for a while, but in many cases, criminals simply resume their activities when they leave prison. Even shorter sentences can completely turn an offender's life upside down and you rarely become a better person. Dutch judges are much more inclined to give community service or a suspended sentence than British judges. Research shows that this is not only cheaper but also reduces the likelihood of reoffending. The Netherlands shows it is not a given that prison populations must always increase and it is not necessarily true that society becomes less safe with fewer people in jail. Despite their emptying prisons, the Dutch can still walk the streets safely at night. James Timpson might also consider the remarkable prison system of Norway. Its prisons are often small and very focused on reintegration. They are designed so that daily life can proceed as normally as possible. As a result, inmates are less alienated from society. You can argue whether a system from a sparsely populated country like Norway is suitable for Britain or other large countries but it is also clear that the British system has reached its limits and that a new approach is not a luxury.

#### **4.4.2 Texas-style reforms** *Extract from article by Nadeem Badshah*

Texas-style prison reforms that would allow inmates in England and Wales to reduce their sentences by earning points through participation in courses are being considered by ministers. Labour is drawing up plans to replicate the model used in the US state where prisoners can cut their jail time by taking part in classes aimed at tackling the root causes of offending such as drug use. The courses will include education and vocational workshops, and drug or behavioural rehabilitation sessions. The reforms have contributed to the prison population in Texas falling by

15%. Reoffending rates over the same period have fallen by about 30%. The justice secretary is expected to visit the US later this year to look into the prospect of a similar scheme being adopted to reduce the swelling prison population and rate of reoffending.

#### **4.4.3 Prison design** *Extract from article by Yvonne Jewkes, professor of criminology - Places to heal, not to harm': why brutal prison design kills off hope*

This is part of research into how architecture and design can assist in rehabilitating offenders and asks the question what would it take to incorporate humanity into prison design? The things that will inevitably scupper a well-meaning vision for a prison are:

- Trying to build on the cheap which invariably results in a lack of creativity in design ie anything that “softens” the environment or makes a prison feel more therapeutic or simply more humane, such as trees and landscaping, frequently gets vetoed at an early stage
- Many prison authorities try to head off problems of overcrowding by commissioning massive prisons that hold thousands of inmates. In 1961 it was said that the size of a building will determine the quality of relationships to a remarkable degree. Today, new prisons holding about 1,700 inmates are the norm
- Taking a prison designed for one purpose and using it for an entirely different purpose
- Kneejerk reactions to security problems: A prison disturbance led to a hardening of the architecture. Everything that had been green was turned grey. Gardens were turned into yards, and high mesh fences topped with razor wire were erected around them. Wooden, picnic-style furniture was replaced with thin metal benches bolted to the ground. This all happened because of one incident that could have been handled differently
- Failure to recruit or retain staff inevitably compromises the smooth running of prisons.

What would an architecture of hope look like for prisoners? They usually have fairly ordinary aspirations such as hoping that their families are OK and will still be there waiting for them when they get out. In fact, a home, a family and a job are the things most likely to contribute to going straight. So, if we were to try to use design to reduce recidivism, the most effective way of doing it would be to design out the worst aspects of imprisonment (separation from family, severance from work, isolation in hostile spaces) and design in elements that encourage attachments and situations that are strongly linked to success on release eg “Does the space continually say ‘You are a prisoner and a criminal,’ not to be trusted or respected, or does the space say, ‘You are a father,’ in a well-designed visiting area? One environment allows hope to flourish and another kills it off.” A thoughtfully designed prison can make a positive difference to the lives of those who live and work in it. I’m convinced good design need cost no more than bad design, and that persuading prison commissioners and architects to design with hope and human flourishing in mind, rather than security, control, and punishment, is of benefit to society, as well as the people on the receiving end of it.

#### **4.5 Women offenders** *Justice Secretary statement*

The justice secretary has declared that “prison isn’t working” for women as she announced a package of measures to reduce the number of females in the prison estate. Plans to treat more women in the community, resolve cases involving women before they get to court and drive down the number of young women self-harming will be drawn up by a new body of experts. The system has failed female offenders and she pledged to cut the number of women’s jails. “The shameful fact is we have known this for two decades. In 2007, Baroness Jean Corston undertook a landmark review. It was clear then, and it is clear now, that if we change how we treat women in prison we cut crime, keep families together, and end the harm that passes from one generation to the next. For that reason, this government will launch a new body – the Women’s Justice Board. Its goal will be clear: to reduce the number of women going to prison, with the ultimate ambition of having fewer women’s prisons.” The board will publish a new three-pronged strategy in the spring.