THE INDEPENDENT SENTENCING REVIEW: THE CENTRE FOR JUSTICE INNOVATION RESPONSE

SUMMARY

As our strategic policy paper *Systems Shift*[1] laid bare, in too many places and in too many ways, our criminal justice system is in crisis— our courts, our prisons and our probation services are overloaded, our communities are not kept safe enough, victims of crime are too often left down and offenders are not given the chance to turn their lives around. We therefore welcome the Sentencing Review and the opportunity it presents.

As part of our response, we have drawn together evidence from prison reduction efforts in the United States and in our own youth justice system. Both these case studies strongly suggest legislative change has only been one part, and often quite a small part, of much wider shifts that can better use limited resources to reduce crime and offending. Therefore, as part of the Review's consideration of sentencing structures, we urge the review to consider not just the mechanics of how laws are passed, interpreted and implemented, but also how we create a strategic central Government function that actively and publically manages supply and demand across the justice system. We repeat our *System Shift* recommendation that, as part of this strategic centre, the Government sets up an independent Institute for Justice, to provide, amongst other things, annual, independent forecasts of criminal justice capacity and demand so policymakers can make smarter, better informed decisions (like an Office for Budget Responsibility for justice).

Given how vital effective community supervision of offenders is to keeping the public safe, we also call for a community justice reboot. This reboot's fundamental goal must be to use precious probation officer time on good quality supervision and interventions, focussing their work on quality and on immediacy. This means not wasting resources, as we have done previously, on extending the length and weight of community supervision in a misplaced effort to convince judges and the public that community sentences are robust. Instead, we need, first, to lower probation officer caseloads, by shifting cases out of the community sentence caseload, including by increasing the use of out of court resolutions (OOCRs) and diversion at court. Second, we need a smarter community sentencing regime, with shorter, more community focussed unpaid work and a new set of standardised, tech-enabled and less resource intensive packages of community sentences. Third, we set out recommendations to give new powers to probation officers to manage compliance in a more dynamic and responsive way, to better integrate electronic monitoring and technology within community supervision, and also to better incentivise and recognise successful completion of community sentences.

We also need to reinvigorate our response to repeat, persistent prolific offending. Our review of the evidence strongly suggests that proposals to impose longer, mandatory prison sentences on prolific offenders to "force them to engage with rehabilitation" in prison are unlikely to reduce crime and will likely accentuate pre-existing racial disparities. Instead, we suggest the Review explore a range of community justice measures to reduce repeat and prolific offending, especially among vulnerable cohorts. This should include investment in high quality drug treatment, reform of liaison and diversion services, making a clear commitment to existing and new women's centres and expanding the Intensive Supervision Court pilots, especially those specifically for women at risk of short custody. Turning to custodial sentences themselves, we note that the presumption on short prison sentences in Scotland has not led to an overall reduction in the use of prison. Instead, alongside our wider recommendations we make to managing demand better further upstream, we recommend the piloting of a home confinement order to reduce the use of short prison sentences, modelled on similar approaches in other jurisdictions.

Finally, the Review should also bring forward recommendations to reform the often overlooked but most commonly used criminal court sentence - the court fine – in particular to recommend better options for sentencers for those who cannot afford to pay court fines, such as converting fines into unpaid workdays.

THEME 1. HISTORY AND TRENDS IN SENTENCING

The stated goal of the Review is to "ensure we are never again in a position where the country has more prisoners than prison places, and the government is forced to rely on the emergency release of prisoners." The Review's terms of reference welcomes consideration of "International jurisdictions…and what we can learn from them."

Given both the emphasis Government Ministers have placed on the American experience of reducing the use of imprisonment safely, and our links to our American sister organisation, the Center for Justice Innovation, we have provided a synthesis of the measures that different states have taken to reduce the use of prison in Annex A. This summary suggests that prison reduction, where it has occurred, has been through a combination of efforts to improve community justice and reduce the use of imprisonment (by changing legislation, reducing the use of breach, reducing remand and increasing opportunities for release). Vital to these efforts has been establishing an environment with long-term commitment to prison reduction, including high-profile political leadership and bipartisanship.

We also want to highlight an often-overlooked case study within England and Wales, the youth justice system. Over the last ten years, the number of children coming into the formal criminal justice system, the number appearing in court and the number sent to custody have all dramatically fallen,[2] without an increase in youth crime.[3] The development of an evidence base and a quiet consensus that community justice options, including the greater use of prevention and diversion, lead to better outcomes for children has been a significant factor in this achievement. Early intervention, diversion and more flexible community sentencing now comprise the default response to children involved in offending behaviour.[4] This has happened without a radical overhaul of the sentencing framework.

Both these case studies strongly suggest that they best way of rebalancing supply and demand involves a set of wider reforms to the criminal justice system, not just changes to sentencing legislation, and that some of these changes, in part, explicitly aim to reduce the use of imprisonment. This stems from recognition of both prison's high cost and its low cost-effectiveness as a crime reduction intervention. A recent meta-analysis concludes, "current analysis shows that custodial sanctions have no effect on reoffending or slightly increase it when compared with the effects of noncustodial sanctions such as probation."[5] While we recognise that prison's impact on re-offending is only one part of its theoretical justification, the weight of evidence strongly suggest that increasing imprisonment cannot be justified on the grounds it increases public safety by decreasing re-offending. **Both these case studies strongly suggest legislative change has only been one part, and often quite a small part, of much wider shifts that can better use limited resources to reduce crime and offending.**

THEME 2. STRUCTURES

The Review asks how might we "reform structures and processes to better meet the purposes of sentencing whilst ensuring a sustainable system." We focus on the second limb of this question.

The criminal justice system is, like many other public services, a complex adaptive system,[6] which means that policy intentions often have perverse and unintended consequences, that feedback loops and connections between related agencies can be unclear and, at times, volatile. Over the past decade, the intrinsically unpredictable nature of social systems has, however, been exacerbated by the lack of a strategic centre to criminal justice policy thinking. We have seen, for example, the creation of Police and Crime Commissioners and new metro-Mayors, which democratised and entrenched the local governance of England and Welsh policing, while other services, like our probation services, are centralised like never before. Moreover, there is no obvious place where forecasts of demand and supply are made, where Home Office decisions to create new offences, for example, are publicly and transparently assessed for the implications they will have on prosecutors, defence lawyers, victim services, probation and prison services. We recommend the Review consider **building a more strategic central Government operation to oversee and manage supply and demand in justice** by:

- Build an independent Institute for Justice,[7] to provide annual, independent forecasts of criminal justice capacity and demand (not just prison population projections) so policymakers can make smarter, better-informed decisions (like an Office for Budget Responsibility for justice). Over time, it could explore hosting the evidence store of what works and for whom and provide independent scrutiny on the adoption of new technologies into the justice system.[8] It could consult on long-term prison population and capacity options providing an objective analysis of what different prison population scenarios would mean for England and Wales, using similar common law countries as comparators.;[9]
- Create a national Office for Victims, as a non-departmental public body, to distribute and oversee all existing Government funding for victims services,[10] to provide focus to the existing arrangements, which the previous Government's own strategy admits, is a "confusing patchwork."[11] This new Office for Victims should explore the feasibility of larger scale national projects like the feasibility of a national victim-care hub,[12] and the creation of a Justice Journey Number (like an NHS number) to bring together all the data about the person and not around each individual case.[13]

We also believe effective community justice (see below) is best delivered locally. Despite probation teams already being organised into local probation delivery units,[14] its decision-making and leadership are housed in His Majesty's Prison and Probation Service's (HMPPS) national structure, which is itself primarily focused on prison. We believe that those things which most help people desist from crime (personalised support, positive relationships and networks of support in local communities) are all better delivered at a local level.[15] Probation work needs to be within a structure in which power and decision-making are kept as close as possible to communities. This is most likely down to a local authority level, akin to how community justice services are provided in the youth justice system.[16] However, we cannot recommend such a big reform within the timescales of the next Parliament. At a time when the prison system is close to bursting, and the probation workforce is so fragile, another re-organisation may cause the service to implode.

Nonetheless, we recommend, in line with the Government's English Devolution White paper,[17] and its commitments to Wales in its manifesto, that **the Review recommend that Government should set clear a direction of travel to localise and professionalise community supervision.** This can be achieved by building the resilience of local probation teams and devolving decision making to them over time, with a view to their formal statutory devolution into a local community justice system in the future (including devolution to Wales). Moreover, we suggest that the Review considers the merits of work to place probation on a professional footing,[18] like nursing, including investment in continuous professional development[19] and clinical supervision to help improve retention rates and reduce sickness.

THEMES 3 AND 4. COMMUNITY JUSTICE & TECHNOLOGY

Given how vital effective community supervision of offenders is to keeping the public safe, we call for a community justice reboot. Almost every person held responsible for a crime will end up under community justice supervision. Our community justice system delivered over 450,000 justice disposals[20] through OOCRs and community sentences in 2023/24. This community justice system needs to hold them accountable, deliver punishment, needs to follow the evidence, be proportionate and affordable. Our reboot's fundamental goal must be to use precious probation officer time on good quality supervision and interventions, focussing their work on quality and on immediacy. We need to focus on what works, namely freeing up probation officer time to focus it on rehabilitation and managing those who pose significant risks of harm to the public. We know that good quality supervision works,[21] but this requires us to lower probation officer caseloads, [22] and to give probation professionals the chance to deliver the support and advice that many of them yearn to provide. A reboot also means rethinking how we integrate technology, like electronic monitoring, into our community justice services, rather than seeing it as separate, and being realistic about what it can achieve (see Annex B for a summary of the evidence on electronic monitoring). Technologies do not deliver results on their own. Rather they offer the means to get better outcomes when deployed intelligently by trained professionals.[23]

In order to **reduce demand on community justice services**, we recommend:

- Reducing the number of cases coming into the criminal courts. This can be achieved by, first, shifting a number of 'administrative' offences, like TV licence evasion, into the civil justice system,[24] and, second, by increasing the proportion of cases that receive an out of court resolution (OOCRs) back to their 2010

levels and bring greater national consistency to OOCRs across the adult and youth systems. The Lammy Review and the Commission on Racial Equality have highlighted the importance of these interventions, particularly non-statutory disposals which do not require an admission of guilt, for addressing racial disparity in prosecution and sentencing outcomes.[25] Our reports, *Delivering a Smarter Approach: Reforming Out of Court Disposals*,[26] and *Strengthening Community Diversion*,[27] advises how this can be done;

- Encouraging the use of existing deferred sentencing powers: Other jurisdictions use deferred sentencing powers to divert cases from court into community services. For example, in Victoria, Australia, the Assessment and Referral Court improves outcomes for individuals due to go to court who have been diagnosed with a range of mental health illnesses or other vulnerabilities.[28] In New Zealand, deferred sentencing is deployed to enhance the use of restorative justice.[29] By using existing legislation on deferred sentences, and existing services such as liaison and diversion, women's centres and community advice and support services, we could use the court's authority to deliver routes into services that are more effective for people and materially change their justice pathway.;
- Using technology to change how low-risk individuals are supervised in the community, by exploring the use of technology to 'virtually' supervise the lowest risk cases. This can include developing a short and light-touch 'virtual' community sentence, where people 'check-in' to an automated kiosk for some or all of their supervision.;[30]
- Shorter, more community focused unpaid work, including finding ways of commissioning the voluntary sector to deliver rapid, standalone unpaid work for lower harm, quality of life crimes. We should lower the minimum period of time people can be sentenced to unpaid work in exchange for unpaid work being delivered more immediately— so the system delivers fewer hours of unpaid work per order but helps people complete them in a matter of days rather than months. This could also provide an alternative to criminal court fines for those too poor to pay them (see below).[31]

By delivering this shift of demand, we can, at the same time, **invest time and energy into a smarter community sentencing regime**:

- Developing a new set of standard, and less resource intensive, packages of community sentences (for example, a sobriety tagging package for people convicted of alcohol related disorder connected to the night time economy), agreed with sentencers and using the existing legislation. These packages would reduce the burden on probation officer time in both writing pre-sentence reports and in supervision. We should also explore how to use artificial intelligence to analyse probation case management data to better predict non-compliance or serious further offending.;
- Integrating electronic monitoring technologies more closely to probation and giving probation officers more power to vary restrictions based on compliance. In the Netherlands, for example, monitoring regimes are much more closely integrated into probation supervision, where probation officers can gradually relax curfew conditions as the individual makes progress. This flexibility holds the potential for ensuring the electronic monitoring is more tailored. This is particularly crucial as the order progresses and individuals' circumstances change— it will enable, for example, addresses to be shifted without recourse to the courts. It may also include the ability of probation officers to shift the hours of a curfew to cater for changes in employment or the exact boundaries of an exclusion zone. It may also help probation empower victims-- for example, where victims' residence changes, the exclusion requirements should be able to be changed administratively in these cases. Equally, if there has been unwanted contact between the victim and the wearer, probation should be empowered to adjust restrictions accordingly.
- Giving victims of domestic abuse a voice in setting the restrictions on perpetrators to better guarantee their safety and the safety of their children. A smarter approach to tagging would also provide opportunities to involve victims in tailoring the monitoring to respond to their needs. In many circumstances, especially in domestic abuse cases, tagging should take into account victims' needs, giving them a voice in setting the restrictions on perpetrators to better guarantee their safety and the safety of their children. For example, in the US, GPS tagging technology has been used to give victims of domestic violence more control over their own safety, enabling them to have a voice in what restrictions are placed on suspected perpetrators while the trial process is ongoing. [32] Tailoring electronic monitoring to victims' needs, for both bail supervision and community sentences in domestic abuse cases, is another way of making punishment more responsive.

Underpinning this reboot should be efforts to back our probation professionals to use their judgement and discretion more. This should involve **giving probation officers new powers to manage compliance in a more dynamic and responsive way**:

- Providing new powers to manage compliance. For example, probation officers could have the power to respond to breaches without going back to court by extending the number of unpaid work hours to be served (within an acceptable range) or increasing the intensity with which they will be completed. Or we could adopt practices like the informal 'compliance meetings' developed by Jersey's probation services, used as an initial response to non-compliance.;[33]
- Providing new powers to vary restrictions and empower victims. As orders progresses, individuals' circumstances change— giving probation new powers will enable them to shift the hours of a curfew to cater for changes in employment or the exact boundaries of an exclusion zone. It may also help probation empower victims-- for example, where victims' residence changes, the exclusion requirements should be able to be changed administratively in these cases. Equally, if there has been unwanted contact between the victim and the wearer, probation should be empowered to adjust restrictions accordingly.
- Promoting ways to recognise successful completion of community sentences. In other jurisdictions, we have witnessed events such as 'graduation' ceremonies, where individuals are brought together in court and a ceremony is held to congratulate them, for example, for finishing their sentence. In England and Wales, we have seen small examples of probationers' achievements being recognised with letters or certificates. For a number of people on probation, who have experienced difficult relationships with the state, for example, through the education system, the care system or the police, it may be the first time anyone in authority has ever said well done.

Finally, we request the Review does not repeat mistakes of the past. We have wasted opportunities to cut crime and help offenders rehabilitate (and wasted Parliamentary time, taxpayer resources and frontline patience) by extending the length and weight of community supervision in a misplaced effort to convince judges and the public that community sentences are robust. When this has been tried before, it has not resulted in reductions in the use of custody, or large changes in re-offending rates, nor rises in the confidence of the judiciary or the public. Moreover, the Review already recognises that the existing community justice system already imposes substantial doses of punishment. We highlight that they do so not just in 'punitive' requirements like unpaid work[34] and electronic monitoring but research also shows that individuals can often feel that parts of community sentences that are intended to be rehabilitative, like drug treatment, are painful.[35] 'Research suggests that individuals experience additional pains, such as the impact on their lives of a criminal record on their employment, as more punitive than the terms of the orders themselves. Moreover, we also highlight that, like prison, a community justice intervention cannot 'fix' everyone, and it is unlikely to do so for many in the timescale of a single period of community supervision.[36] This is especially the case given the evidence suggesting that a number of the factors that help people desist from crime (such as strong ties to family and community, employment that fulfils them and a sense of meaning and purpose in their lives)[37] are likely to be established outside of the timescale of a single period of community supervision. In short, **the reality of community justice as experienced by those subject to it is often different from what is intended by judges and lawmakers, and what is expected and imagined by the public, and we need to be realistic about what that the system can achieve.**

THEME 5: FINES AND FINANCIAL CHARGES

The fine is the most commonly used sentence of our criminal courts. Since 2012, it has steadily been used more, compared to other sentences—rising from 66% of all sentences in 2012 to 80% in 2023.[38] The Review states it is "examining the use and composition of… fines" and asks for consideration about "the use of fines in the hierarchy of sentences". We welcome the Review's attention to this often-overlooked area of sentencing, and the opportunity to draw attention to several issues our research has found on the unequal impact of court fines on people living on low incomes.

As we have previously outlined, all of the requirements in the community sentencing framework impose punishments and hardships that people not subject to criminal sanction would find burdensome. Yet sentencers are compelled by the sentencing legislation to add an additional punitive element to a community

order, which often takes the form of a fine. Our research on the use of court fines found that the punitive impact of fines is not experienced equally. We found a spectrum ranging from middle to high earners who could pay on the day without issue, to those experiencing extreme financial hardship who struggled to pay any amount.[39] This disparity exists despite the court's powers to adjust the fine amount to the person's financial circumstances.

Moreover, our research showed that the pains experienced by people on low incomes from receiving a fine can be significant. This cohort is frequently already in problematic debt, and often went further into arrears on rent and bills as a result of paying their fine, used foodbanks and experienced poor mental and physical health.[40] When fine totals exceed people's ability to pay, the court often receives payments in small instalments, which can take months, and sometimes years, to pay in full.[41] Our discussions with magistrates suggest they are aware of these possible outcomes, but feel restricted by the sentencing guidelines, and are left with no other option than to fine them.[42] These issues indicate that there needs to be an alternative for those who cannot pay. We recommend the Review **considers a range of better options for sentencers for those who cannot afford to pay court fines**:

- Decriminalising a set of offences that often result in a fine and can be better dealt with outside the criminal court system. For example, motoring offences, TV licence evasion and rail fare evasion could be enforced by the civil courts or by magistrates acting in a civil capacity. We do not see any logic for separating these charges from the non-payment of council tax which is enforced in this way. Some offences are explicitly linked to poverty and social deprivation and therefore should be fully decriminalised and dealt with by a social welfare response, such as truancy, begging and prostitution.
- Removing from the Crime and Courts Act 2013 the requirement that courts "must either include in the order at least one requirement that has the purpose of punishment, or impose a fine, or do both" when imposing a community order.
- Reintroducing the 'fine payment work' pilot, which enabled sentencers to convert the fine into an unpaid work order. An evaluation in 2010 found that half of the participants had achieved a satisfactory outcome, work placement supervisors largely responded enthusiastically to the programme, and many participants positively described their experience as giving back to the community. [43] This would not require legislative change as these magistrate powers remain on the statute books.

THEME 6: CUSTODIAL SENTENCING

Ministers and others have suggested that, to tackle repeat offending, the Review consider whether a longer mandatory sentencing regime might punish prolific offenders better and force them to engage with rehabilitation in prison. In our evidence summary on prolific offenders (Annex C), we looked at the evidence of similar mandatory sentencing regimes in other countries. There is **little evidence to suggest that this policy will reduce overall crime rates significantly and it would likely exacerbate already prevalent racial disparities in jurisdictions**. Moreover, given the number of prolific offenders (as currently defined as those with 16 or more previous convictions) that would potentially be in scope, a law like this could would mean that over 75,000 individuals could receive a mandatory prison sentence on their next conviction, which would likely to overwhelm the prison system. A more targeted approach may not have that downside, but it would have to become something like a '45 strikes and you are out' law,[44] which would be hard to present credibly to the public.

Turning to short custodial sentences, typically covering those that attract less than 12 months, we have previously conducted some analysis of the use of the presumption in Scotland. We note that the presence of a presumption in Scotland has not curtailed the demand pressures in Scottish prisons, and the Scottish Government has recently had to announce emergency release measures and a Sentencing Review of their own. We have also previously modelled what the impact of a similar presumption on short sentences of 6 months or less could be. Our modelling of the impact of a 6-month presumption in England and Wales suggests it could lead to a reduction of only between 500 to 700 prison places per year (while adding to the probation caseload). Given this, we believe **managing demand better further upstream is more likely to reduce the use of short custodial sentences than expending effort on introducing legislative presumptions or a ban on them**.

Moving to suspended sentences, we see the Suspended Sentence Order as a vital part of the community sentence framework. As part of the work to develop packages that are clearly understood by judges and people on probation alike, we suggest that one package that could be piloted is an explicit Home Detention Order. As the Sentencing Academy in their response to the Smarter Sentencing White Paper in 2020 highlighted "Most western jurisdictions now operate a home confinement, community custody or virtual imprisonment sanction. These have the potential to safely hold offenders accountable without necessitating imprisonment."[45] We suggest the **piloting of a home confinement order that explicitly is targeted at people who would otherwise get prison sentences of less than two years**, modelled on the Swedish Intensive Supervision with Electronic Monitoring Order (see case study[46] in our paper, *Smarter Sentencing: Electronic Monitoring*).

THEME 7: INDIVIDUAL NEEDS OF VICTIMS AND OFFENDERS

The Review invites views on whether the "sentencing framework should be amended to take into account the specific needs or vulnerabilities of specific cohorts" and consider "the approach to sentencing in cases of prolific offenders."[47] 'Prolific offenders' make up roughly one tenth (0.5 million) of the overall offending cohort (5.89 million), but they are responsible for nearly half of all sentencing outcomes (10.5 million).[48] While the majority of this cohort are men, there are especially vulnerable women too, whose lives are marked by domestic abuse and contact with the care system. Based on the summary of the evidence at Annex C, we recommend a **range of community justice measures to reduce repeat and prolific offending, especially among vulnerable cohorts like women**:

- Commit to long-term, ring-fenced funding of high-quality drug treatment for justice.[49] Government should commit to provide funding on a three-year basis, allowing services to better plan ahead. Furthermore, it should require local authorities to ring-fence treatment funding for justice allocated under the public health grant and set realistic goals to expand treatment available for those on community supervision.;
- A joint health/criminal justice review of police and court custody liaison and diversion services, that aims to ensure that they are staffed by multi-agency teams, including lived experience staff, so they work with all vulnerable people and, where appropriate, refer people out of the justice system.;
- If their evaluation is positive, the Government should expand the Intensive Supervision Court pilots. Based on our experience and expertise in this area, our paper, *'Delivering a Smarter Approach: Piloting Problem-solving Courts'*,[50] identifies the key lessons that must guide the implementation of this reform—most importantly, to use this opportunity to embrace and build from existing innovation on the ground, to provide the expansion of the pilots the best chance of success and sustainability.;
- Provide a clear funding commitment to women's centres, which provide a 'one-stop shop' of individually tailored support tackling the trauma and multiple complex needs experienced by female offenders, and yoke them to dedicated problem-solving courts, like in Birmingham, where a single judge provides regular oversight of a woman's progress through her community sentence;
- Invest in Housing First initiatives as part of broader efforts to increase housing supply and tackle homelessness.

Endnotes

[1] Bowen. (2024). *Systems Shift*. Centre for Justice Innovation
[2] Ministry of Justice, (2024). *Youth justice statistics: 2022 to 2023*.
[3] House of Commons Justice Committee, (2020). *Children and Young People in Custody (Part 1): Entry into the youth justice system*.
[4] Youth Justice Board, (2024). *The Youth Justice Board strategy for delivering positive outcomes for children by reducing offending and creating safer communities* 2024–2027.
[5] Petrich et al (2021). *Custodial Sanctions and Reoffending: A Meta-Analytic Review*. Crime and Justice: a research Review
[6] Complex adaptive systems are complex, in that they are dynamic and non-linear; adaptive, in that individual and/or collective behaviour adapts to the environment; and a system because it is an organic network of interactions between organisations. Health Foundation. (2010). *Evidence scan: Complex adaptive systems*.
[7] This could be built by bringing together existing resources currently in What Works Centres and Ministry of Justice's and justice Inspectorate's research
[8] PeopleFirst. (2024). People *first, always: Delivering better, cheaper, more accessible public services.*

[9] For example, our rough estimates show that if our imprisonment rate (the number of prisoners per 100,000 population) was to rise to be the same as New Zealand's in ten years' time, we estimate we would need capacity for 115,840 prison places by 2034. However, if the imprisonment rate were to fall to be similar to the Republic of Ireland's by 2034, we would need only 58,891 places. These scenarios can help us make long term choices about what kind of prison system we want, what type of prisons we need and where those prisons need to be.;
[10] This office would be responsible for the funding of victim services, including specialist services, like the National Homicide Service, which are delivered national, and setting national standards that victims' services should met, especially in honouring commitments under the Victims Code. Where existing victim funds are currently distributed locally, they would continue to be so but they should be more concentrated—where there are metro Mayors, all existing victim funding funds should be allocated to them and, as far as is possible, in areas without Mayors, they should be distributed by the Police and Crime commissioner. We recognise that this may entail some funds simply moving to be re-distributed to the Departments currently in charge of those funds. In particular, we see that ring fenced funding for accommodation is likely to be best distributed by DHLUC to LAs for ring-fenced use within their existing housing budgets.
[11] HM Government. (2022). *Victims Funding Strategy*.
[12] The proposal for a national victim-care hub is to provide a single point of contact, timely updates on case progression, information and advice, referrals to specialist support and oversight to ensure that entitlements under the Victims' Code are being delivered.
[13] This issue has been explored in detail by Dr Natalie Byrom, an associate of the Centre.
[14] Through the recent probation reform programme, probation has been organised around regions but also into 108 Probation Delivery Units (PDUs), the boundaries of which have been developed to align with upper tier and unitary local authority boundaries. These PDUs are already, like YJSs, subject to individual inspection by HMIP and are lead, like YJS, by a Head of Service.
[15] HM Inspectorate of Probation. (2023). *Annual Report 2022/2023*. In his valedictory foreword, Justin Russell wrote, "the great majority of the probation caseload, all of the most important relationships for probation staff and the people they work with are local, with locally run and accountable partners. These include local police services; local authority housing and social service departments; local mental health trusts; and local drug and alcohol services… I think the time has come for an independent Review of whether probation should move back to a more local form of governance and control, building on the highly successful lessons of youth justice services."
[16] Every local authority (and other agencies) has a statutory duty (under the Crime and Disorder Act 1998) to establish a Youth Offending Team (increasingly known as Youth Justice Services (YJSs)) to provide local youth justice services.
[17] Housing, Communities and Local Government. (2024). *English Devolution White Paper*
[18] Bowen. (2020) *A Smarter Approach: Probation professionalisation*. Centre for Justice Innovation.
[19] For example, the Health and Care Professionals Council, which regulates 15 professions including paramedics and physiotherapists, requires every registered individual to re-register every two years and requires documentary evidence that the practitioner has engaged in continuous professional development that demonstrates its relevance to practice, that has contributed to the quality of practice and is of benefit to service users.
[20] Last year, there were 467,358 community justice disposal, either out of court resolutions (of which 158,594 were informal OOCRs and 192,833 formal OOCRS) or a community sentence (115,931), including 44,255 on suspended sentences.
[21] HMPPS. (2020). *Introducing the Draft Target Operating Model-Probation Reform Programme.*
[22] Recent HMIP research highlights that where inspectors found that when probation supervision "both engaged the person on probation and supported their desistance, the sentence completion rate was 24 percentage points higher and the reoffending rate was 14 percentage points lower compared to those cases where both judgements were negative." Moore et al. (2023). *Examining the links between probation supervision and positive outcomes – completion and proven reoffending.* HM Inspectorate of Probation
[23] See: Belur et al (2017) and Graham, H. and McIvor, G. (2015)
[24] Centre for Justice Innovation paper forthcoming.
[25] David Lammy (2017). The Lammy Review; Commission on Race and Ethnic Disparities, (2021). Commission on Race and Ethnic Disparities: The Report.
[26] Bowen (2020). *Delivering a Smarter Approach: Reforming Out of Court Disposals*. Centre for Justice Innovation
[27] Slade (2022). *Strengthening Community Diversion*. Centre for Justice Innovation
[28] Rutter et al (2017). *The Assessment and Referral Court (ARC) list & Borderline Personality Disorder (BPD) – are they compatible?,* Australian Catholic University. Sentencing is deferred while the accused participates in an individual support plan, while also meeting regularly with their case manager and being brought back monthly before the same judge, to check on their progress. 82% of participants successfully completed the program and 43% of participants did not re-offend in the two years' post-completion.
[29] In New Zealand pre-sentencing restorative justice conferencing, the court can defer sentence for restorative justice to be considered. Once a case has been adjourned, a local coordinator will explore whether the victim and the offender are willing to participate and assign a facilitator to the case. At the conference, participants discuss the harm and impacts of the offence and attempt to produce a restorative outcome plan. After the conference, facilitators report the conference

proceedings to the court. These RJ conferencing results are then considered by judges once the case returns to court for sentencing. The latest data (which covers both police and court referred cases) shows that the reoffending rate for offenders who participated in restorative justice was 15% lower over the following 12-month period than comparable offenders and 7.5% lower over three years. Offenders who participated in restorative justice committed 26% fewer offences per offender within the following 12-month period than comparable offenders (20% fewer offences within three years). According to New Zealand's Ministry of Justice, this change resulted in the number of cases referred for a restorative justice assessment jumping from around 4000 in 2014 to just over 12,000 in 2015.

[30] Bauer et al (2016*). Kiosk Supervision: A Guidebook for Community Corrections Professionals*. National institute of Justice.

[31] Slade & Whitehead. (2024). *"Where the hell am I going to get that money from?": The impact of court fines on people on low incomes*. Centre for Justice Innovation.

[32] Erez, Ibarra, Bales, & Gur. (2012). *GPS Monitoring Technologies and Domestic Violence: An Evaluation Study*. National Institute of Justice, Office of Justice Programs, U.S. Department of Justice.

[33] These meetings, which are initiated after two unacceptable absences, are attended by the probationer, their probation officer and the officer's manager. The meeting is intended to help people complete their order successfully if possible, providing a warning of the consequences of non-compliance but also exploring factors which might be impeding compliance. Raynor, Peter 'Compliance through Discussion: The Jersey Experience' in Pamela Ugwudike and Peter Raynor (2013) (eds) *What Works in Probationer Compliance: International Perspectives and Evidence-Based Practice*

[34] Bowen & Bennett. (2022). *The Future of Unpaid Work*. Centre for Justice Innovation

[35] McNeill, F. (2018). *Pervasive Punishment: Making Sense of Mass Supervision*.

[36] The evidence suggests that the primary factors that help people desist from crime such as strong ties to family and community, employment that fulfils them and a sense of meaning and purpose in their lives. HM Inspectorate of Probation. (2023). *Desistance – general practice principles*

[37] HM Inspectorate of Probation. (2023). *Desistance – general practice principles*

[38] Ministry of Justice Court Proceedings Database.

[39] Slade, Whitehead (2024). *"Where the hell am I going to get that money from?": The impact of court fines on people on low incomes.* Centre for Justice Innovation.

[40] Ibid

[41] Ibid

[42] Ibid

[43] Ministry of Justice (2010). *Fine Payment Work Process Study*. https://www.researchgate.net/publication/307168054_Fine_Payment_Work_Process_Study_2010

[44] Our estimates suggest this could apply to over 12,000 individuals.

[45] Sentencing Academy (2020) *Response to publication of the White Paper: A Smarter Approach to Sentencing*.

[46] This case study is a synthesis of discussion found in Graham, H. and McIvor, G. (2015). *Scottish and International Review of the Uses of Electronic Monitoring*. Stirling: Scottish Centre for Crime and Justice Research.

[47] Ministry of Justice. (2023). *Characteristics of Prolific Offenders, 2000-2021*.

[48] Ibid.

[49] Department of Health and Social Care. (2021). *Independent Review of drugs by Dame Carol Black*

[50] Centre for Justice Innovation, (2020). Delivering a Smarter Approach: Piloting Problem-Solving Courts.

ANNEX A: PRISON REDUCTION EFFORTS IN THE USA

Latest data suggest that, at the end of 2022, there were over 1,230,100 persons in prison[1] in the United States of America.[2] This represented a 1% annual increase from 2021, following eight consecutive years of decline.[3] The U.S. imprisonment rate in 2022 was 355 sentenced prisoners per 100,000, a 26% decrease from 2012 (480 per 100,000). These overall figures mask considerable variation from state to state—Massachusetts has an imprisonment rate of 94 per 100,000, while Mississippi has a rate of 661 per 100,000. For context, the rate per 100,000 in England and Wales is 139 per 100,000. Despite the increase seen in 2022, there have been major efforts to reduce the use of imprisonment (both in local jails and prisons) in a number of states over the past few decades. Research[4] suggests that these efforts have included:

- Strengthening community justice, through improving early intervention and prevention measures,[5] police-led and court based diversion, the greater use of prosecutors' discretion to avoid the use of harms of prison, and strategic litigation efforts from defense attorneys to reduce the use of imprisonment;
- Decreasing the flow of cases into prisons, through reductions in criminal penalties or adjusting penalties according to seriousness, the reduction in the use of pre-trial detention, the elimination of various mandatory minimum sentences, sometimes retroactively, the creation or expansion of specialty courts and/or other alternatives to prison, and efforts to divert at-risk youth away from the justice system;
- Decreasing the flow of breach cases from community supervision, including the implementation of graduated intermediate sanctions for non-criminal violations, improving engagement with community service providers and employers before release from prison and the imposition of shorter terms of community supervision;
- Increasing prison releases by improving chances and efficiency of release, including the use of dynamic risk and needs assessment, expanding initiatives to overcome barriers to the feasibility of release, conditional release approval earlier, centralised re-entry planning and simplified and/or expedited release processing;
- Increasing prison releases by requiring individuals to serve less before becoming eligibility for release, including expansion of sentence credits, the reduction of criminal penalties even though still prison-bound and modifications to sentence enhancements for aggravating factors;
- Changing the narrative on incarceration and the incarcerated, including challenging the existing public view of currently and formerly imprisoned individuals, and actively welcoming them as leaders in prison reduction efforts;
- Ensuring there is a long-term environment to sustain prison reduction efforts, including high-profile leadership and bipartisanship, using outside technical assistance and research findings to drive and develop evidence-based practices, community engagement (especially to help bolster community reintegration of prisoners), and incremental innovation through pilots or staged implementation.

It is unclear whether any single one of these strategies is more important than the others, and not all states have adopted all or even the majority of these strategies in their efforts to reduce their prison populations. There are a range of resources online which identify promising state and county level practices to reduce the use of imprisonment. The Safety and Justice Challenge, sponsored by the John D. and Catherine T. MacArthur Foundation, was launched in 2016. It has worked across 26 sites to reduce their jail populations. The sites have collectively reduced their jail population by 23% since the start of the initiative, with 11 sites reducing their jail population by 15% or more.

Endnotes

[1] We will use the term prisons to denote all forms of imprisonment in the USA, including jails, state prisons and federal prisons.
[2] Bureau of Justice Statistics. (2023). *Prisoners in 2022 – Statistical Tables*
[3] This rise may have been a natural bounce back following the steep decline in 2020 and 2021 associated with covid-19.
[4] This synthesis has drawn from the following publications: the resources on the MacArthur Foundation's Safety and Justice Challenge (https://safetyandjusticechallenge.org); Pettus-Davis & Epperson. (2015) *From Mass Incarceration to*

Smart Decarceration. American Academy of Social Work; Schrantz et al. (2018). *DECARCERATION STRATEGIES: How 5 States Achieved Substantial Prison Population Reductions*. The Sentencing Project; Reyes & Ball. (2024) *An Overview of Criminal Justice Reform in the United States*. Center for Justice Innovation

[5] Some of which are delivered by formal justice agencies but many of which are delivered by not-for-profit and community groups.

ANNEX B: SUMMARY OF THE EVIDENCE ON ELECTRONIC MONITORING

A meta-analysis of electronic location monitoring looked at 17 high quality national and international studies of its use in pre-trial, community sentencing, post-prison release settings. It suggests that electronic location monitoring can be successful in supressing offending during the period in which individuals are monitored, but that there is no general longer term impact on re-offending.[1] A summary published by HMI Probation states, there is "no evidence of a suppression effect beyond the period of electronic monitoring."[2]

However, the meta-analysis does find evidence of a longer-term impact on re-offending when considering specific sub groups. In particular, studies, which only looked at when individuals are put on electronic location monitoring instead of prison, as compared to when they were put on electronic location monitoring after prison, suggest that there is a statistically significant reduction in reoffending for those monitored on community sentences.[3] In addition, the meta-analysis also found that when it looked solely at those studies which used re-conviction or re-imprisonment as the outcome measure (rather than re-arrest or parole violations) "showed a statistically significant reduction in these outcomes for participants on electronic monitoring compared to the control groups."[4] Studies that looked at re-offending for sex offenders on community sentences alone found that there is evidence that electronic location monitoring is associated with statistically significant reductions in re-offending.[5]

There is some evidence that keeping some people on longer periods of electronic location monitoring, both when individuals are young and when they are assessed as low risk, "can have a backfire effect – that is, it can lead to increases in re-offending…"[6] There are no studies relating to the impact of electronic location monitoring of wearers who reside in hostels. This could be because such places are sometimes used for people who cannot be monitored, or who cannot be monitored in their own homes, perhaps because they fall out with, or put unnecessary strain, on co-residents.

There is also no clear evidence as to which of the specific technologies of electronic monitoring (either RF or GPS as location monitors, or RAM) is more effective in reducing re-offending than the other, or which works better for whom and in what circumstances.[7] Finally, it is worth highlighting that most impact studies (nationally and internationally) on electronic monitoring relate to location monitoring, and the evidence and practice base on remote alcohol monitoring is much less developed.

The evidence is not definitive on the *exact* mechanisms that produce these various impacts of electronic location monitoring on re-offending. However, a range of published research, including service user insights on the experience of being monitored, gives us clues to the possible ways in which electronic location monitoring produces these impacts. Broadly, electronic location monitoring can have a suppression effect because it increases the risk of offending being detected, providing authorities with data that can indicate individual breaches of conditions (for example, by keeping a record of the participant's location at certain times of the day, where an exclusion order is in place). Electronic location monitoring often adds additional weight to an individual's supervision, meaning wearers are monitored more than they otherwise would be.

In addition, the evidence suggests that, for some wearers, the mere presence of the device is a constant reminder to the participant of the conditions they are under, heightening their perceptions of the likelihood of being caught if they offend. There is some evidence to suggest that, for wearers of GPS tracking tags, the location monitoring enables them to be linked to or cleared of crimes, and that this awareness also can change individual behaviour.

The evidence suggests that these deterrence mechanisms can also interact with more rehabilitative mechanisms. For example, there is evidence that some users find monitoring 'habit-breaking', as curfews disrupt usual patterns of behaviour and may, more positively, provide structure to some individuals' lives. Moreover, being monitored can help individuals reduce their exposure to negative influences, as it prevents them spending time with certain individuals or to enter certain areas which are linked to their prior offending. There is also evidence that, for some individuals, electronic monitoring increases positive influences in their lives, like their amount of family contact or continued participation in employment. This may be particularly relevant for those individuals who would otherwise have been imprisoned.

However, the evidence also sheds light on why electronic monitoring's longer term impacts can be minimal, suggesting, in particular, that being monitored does not materially affect the underlying environment individuals live in, nor their capacity and ability to manage risks or their behaviour. Monitored people's experiences suggest that behaviour change may only last for as long as the monitoring does. In the absence of other interventions, such as those that may help address unmet needs or to support them to change their behaviour and consequential thinking, it is perhaps unsurprising that the impact of electronic monitoring dissipates quickly after its removal.

Moreover, the evidence suggests that electronic monitoring impacts people differently, not least because the homes/living spaces in which people are curfewed vary in size and character. While some find it provides opportunities for reflection and stabilisation, others experience being monitored as stressful, feeling their private lives are intruded on. Some find that being monitored acts as a barrier to employment opportunities (as some employers are reticent about employing people who are being monitored). Some people on electronic monitoring struggle to fulfil certain roles or responsibilities, such as being able to care for others, or meet the needs of children, because movement was restricted— this seems especially so for women who occupy gender-traditional roles. There is also evidence that already strained familial relationships can worsen when someone is monitored, particularly when wearers are young adults and living with their parents. There is also some evidence that the time lags between the wearer's behaviour and the information being processed and used within supervision arrangements can impact on compliance— if wearers perceive that their behaviour is not being monitored in real time, it is likely to undermine the deterrence impact of being monitored.

Endnotes

[1] Belur, J., Thornton, A., Tompson, L., Manning, M., Sidebottom, A. and Bowers, K. (2017). *A Systematic Review Of The Effectiveness Of The Electronic Monitoring Of Offenders*, London: University College London.
[2] Hucklesby, A & Holdsworth, E. (2020). *Electronic monitoring in probation practice*. HMI Probation.
[3] Belur et al (2017), p59
[4] Ibid, p59
[5] Ibid, p45
[6] ibid, p42
[7] Ibid, p59

ANNEX C: THE EVIDENCE ON PROLIFIC OFFENDERS[1]

Large scale studies into patterns of offending have long identified that the majority of people who commit crime do so in their childhood and adolescence and, over time, they 'age out' of offending. These same studies, however, also observe that a small number of individuals do not desist as they grow older and continue to commit high volumes of crime late into adulthood. This group is often defined as persistent or prolific offenders.[2] In England and Wales, Government data shows that prolific offenders[3] commit eight times as many offences compared to non-prolific offenders and are responsible for nearly half of all sentencing occasions. Prolific offenders are more likely to be involved in theft than their non-prolific counterparts are. 33% of all offences committed by prolific offenders were theft offences, compared to 18% for non-prolific offenders. Shoplifting offences alone made up 14% of all sentencing occasions for prolific offenders.

Latest data suggests that prolific offenders' criminal justice outcomes differ from their non-prolific counterparts. For similar offences, such as shoplifting, prolific offenders are more likely to receive a custodial sentence than their non-prolific counterparts are,[4] which is likely a reflection that the cumulative nature of their offending is being taken into account by sentencers. Data suggests that there has been a small rise in the use of prison for prolific offenders— in 2021, prolific offenders received 4.9 custodial sentences per offender, an increase from 4.6 in 2016. Finally, data from National Lottery '*Fulfilling Lives'* programme shows that many of the people who are termed as 'prolific offenders' are those in society experiencing multiple disadvantage (such as homelessness, offending, domestic abuse and substance use).[5] The data suggests that people with multiple and complex needs revolve through the system multiple times, and are disproportionately represented in the criminal justice system, making up 28% of arrests, 21% magistrates court proceedings,[6] receiving very short prison sentences, reoffending on release and repeating the cycle again.[7]

Mandatory sentencing laws

Ministers and others have suggested that, to tackle repeat offending, the Review consider whether a longer mandatory sentencing regime might punish prolific offenders better and force them to engage with rehabilitation in prison. For example, in their paper, *Super-prolific criminals: The case for action*, Onward, a think tank, calls for a Review of the "sentencing of prolific offenders with a view to creating a clearer expectation of longer and more certain prison sentences for prolific offenders."[8] This policy was also supported by Shadow Justice Secretary, Robert Jenrick, in December 2024.

This proposal has been likened to been so called 'three strikes' laws (albeit these laws were primarily developed to respond to repeat violent and high harm offending, rather than less harmful acquisitive crime). During the mid-1990s, 24 American states and the federal justice system passed legislation in which a person convicted of an offence and who had one or two other previous serious convictions would serve a lengthy prison sentence (sometimes a mandatory life sentence).[9] The aim of such laws was to both deter people from committing further offences and to reduce crime through the incapacitation of 'prolific' offenders. A similar approach was introduced in New Zealand.[10] Despite the wealth of material on 'three strikes' laws, we have found no systematic review of studies on 'Three Strikes' to inform our conclusions. What research we did find suggests:

- Reliable evidence that 'Three Strikes' Laws' have been significantly associated with wider prison population rises and costs: There has been consistent evidence from the USA that rises in prison population numbers, and the rising cost of building more prisons to meet the demand, witnessed in the mid-1990s and early 2000s, has been driven, in part, by 'Three Strikes' Laws;
- Contradictory evidence of impact on offending: Some researchers suggest the initiative succeeded in making reductions to reoffending,[11] while others report negligible or negative effects,[12] such as the commission of more violent crimes, and can increase violence against police officers.[13]
- Reliable evidence of negative, unintended social consequences: Research also suggests that three strikes laws exacerbate already prevalent racial disparities in jurisdictions,[14] and fracture family and community bonds;[15]

- We note that a number of US states have repealed their three strikes laws. New Zealand have repealed their law, though a change in Government means it may be reinstated.

While laws of this kind can have an intuitive appeal on both just desert and public safety grounds, applying three strikes laws to prolific offenders is, in our view, likely not to achieve the aims of those who advance it. Foremost, there is little evidence to suggest that this policy will deliver the deterrent impact intended and therefore it will be unlikely to significantly reduce overall crime rates or significantly deter 'two strike' offenders from committing further offences. We also note that the evidence on 'three strikes' laws corresponds to wider evidence on the impact of deterrence through longer sentencing. This evidence suggests, despite the intuitive appeal of the idea, that using more severe sentences (particularly sentences of immediate imprisonment over other disposals) does not have any significant deterrent effects, either on the general population or on people who have been sentenced.[16]

There is some, albeit mixed, evidence that three strikes laws do deliver some crime reduction benefits through increased incapacitation of offenders. However, the cost of delivering this impact is likely to be high. Given the number of prolific offenders (as currently defined as those with 16 or more previous convictions) that would potentially be in scope, a three strike law would mean that over 75,000 individuals could receive a mandatory prison sentence on their next conviction. That is likely to overwhelm the prison system. A more targeted approach may not have that downside, but it would have to become something like a '45 strikes and you are out' law,[17] which would be hard to present credibly to the public.

Drug treatment

A high proportion of prolific offenders are dependent on illegal drugs and require funds on a daily basis to purchase the drugs on which they are dependent.[18] This need fuels repeat offending behaviour, such as theft. In a number of countries, increasing the availability of drug treatment to people in contact with the criminal justice system has been, in part, proposed and implemented to reduce the re-offending of prolific offenders. The previous Labour Government expanded drug treatment, and specifically linked some of that treatment to a range of criminal justice processes, with an explicit focus on directing prolific offenders into treatment. with an explicit focus on directing prolific offenders into treatment under its Drug Intervention Programme (DIP). The DIP comprised drug treating and referral on arrest, the deployment of mandated testing and treatment within community sentences (via the Drug Rehabilitation Requirement and its precursor, the Drug Testing and Treatment Order (DTTO)) and improving drug treatment provision in prison.

There is significant evidence to suggest that effective drug treatment has a substantial impact on re-offending.[19] However, there is a complex picture about how people who have offended (including prolific offenders) access, engage with and succeed in treatment:

- There remains significant evidence to suggest that mandated drug treatment, which is commonly used within justice settings, can reduce the use of drugs and re-offending,[20] though there is evidence which suggests that it can be less effective than voluntary treatment;[21]
- There is some evidence that referring offenders into treatment at arrest can promote higher rates of engagement with treatment over time;
- There is evidence that mandated drug treatment as part of a community sentence can have a modest impact on re-offending;[22]
- There is evidence that drug treatment services in England and Wales don't serve particular groups effectively, especially women;[23]
- There is strong evidence for the effectiveness of prison-based therapeutic communities in reducing illicit drug use and/or re-offending. However, their implementation is complicated by a variety of factors like staffing, budgets, physical space, materials, local government and policy, and participant behaviour.

Of relevance to the issue of prolific offenders, in 2004, the Netherlands introduced the compulsory treatment of persistent offenders. The measure consists of a combination of imprisonment and behavioural interventions and treatment, which are carried out both in prisons and in care institutions in the community. This policy is in line with the suggestion of Lord Timpson, the Prisons and Probation Minister, who has asked

the Sentencing Review to consider "whether a longer sentence might punish them (prolific offenders) better and force them to engage with rehabilitation on the inside." A 2023 qualitative study by Martinelli and colleagues reports that the programme varies substantially by location and that, when treatment is delivered in prison, it is compromised by the penal environment.[24] We were unable to find any reliable research on the impact of the legislation on reoffending rates.

Intensive community supervision

A number of countries have made prolific offenders subject to 'intensive' community supervision. This has often comprised of a multi-agency team working together to provide rounded and demanding supervision and intervention management around identified prolific offenders:

- In England and Wales, a 2004 'before and after' evaluation of the Prolific and Priority Offenders scheme, with brought together police, probation and treatment providers, suggested that there was a 62% reduction in recorded convictions over a 17-month period.[25] This scheme was replaced by Integrated Offender Management, which was subject to a critical HMIP Inspection report in 2020 and further process evaluation in 2024;
- The use of problem-solving courts,[26] where community supervision and treatment plans are regularly Reviewed by a judge, can also reduce re-offending, compared to prison. However, there is also evidence that they can mismatch treatment and patients' need due to lack of training and that individuals from minoritised communities are less well served;[27]
- The Enhanced Combination Order (ECO) delivered in Northern Ireland whereby people facing up to a year in prison are offered a package of support by a dedicated multi-disciplinary team to rehabilitate them in the community as an alternative. ECOs have shown promising results in reducing re-offending and in delivering savings.[28]

We also note that gender-responsive services for women, primarily delivered through women's centres in England and Wales, often work with individuals with persistent, albeit often lower harm, offending patterns.[29]

Non-justice solutions for people with multiple and complex needs

There are also effective ways of reducing crime caused by 'prolific offenders' with multiple and complex needs through better public service provision outside of the justice system. So, as we have highlighted, investment in drug treatment can mean people are referred, via health and other non-justice service providers, into high-quality treatment, which the evidence shows can make meaningful impacts on offending (along with other benefits). Tackling the homelessness that often sits at the root of the revolving door is another strategy, for example. In that area, there is promising evidence that mainstream accommodation with holistic support, such as Housing First initiatives,[30] results in a high level of tenancy sustainment as well as improved outcomes.[31] The lack of affordable, suitable housing in the right areas remains the biggest challenge to delivering Housing First, especially for people leaving prison,[32] and so Government investment in this area could yield a range of benefits, including reduced offending.

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[1] Data in discussion taken from Ministry of Justice (2023) *Prolific Offenders: Update on the characteristics of prolific offenders, 2000-2021* Ad Hoc Statistics Release

[2] See discussion in McVie, Susan. *Patterns of deviance underlying the age-crime curve: The long term evidence*. British Society of Criminology e-journal 7 (2005): 1-15.

[3] The Government defines adult prolific offenders as having a total of 16 or more previous convictions or cautions, and 8 or more previous convictions or cautions when aged 21 or older.

[4] Prolific offenders received twice as many custodial sentences (2.59 million) than the remaining offending population (1.10 million), between 2000 and 2021.

[5] Data suggests that approximately 58,000 people in England have homelessness, offending and substance use issues. See: Bramley, G and Fitzpatrick, S (2015) *Hard Edges: Mapping Severe and Multiple Disadvantage*. Lankelly Chase Foundation.

[6] Number of participants with at least one interaction in their first quarter on the programme. Lamb, H. et al (2019) *What Has Fulfilling Lives Achieved? Method Notes.* National Lottery Community Fund.

[7] Revolving Doors. (2018). *Short Sentences Briefing*. Available at: https://revolving-doors.org.uk/publications/short-sentences-briefing/
[8] O'Brien, N. (2019). *Super-prolific criminals: The case for action*. Onward
[9] As an example, California's 'Three Strikes' provision meant that (i) people convicted of a felony for the second time received twice the normal sentence for their crime; and (ii) a third-time offender with two or more prior serious or violent felony convictions faces a minimum of 25 years to life in prison. From the law's enactment in 1994 until October 2005, more than 87,500 individuals were sentenced under the second- and third-strike provisions of California's Three Strikes law, including more than 7,500 offenders who received a sentence of 25 years to life in prison for a third strike.
[10] Wang, X. (2021) *Three-Strikes Sentencing in New Zealand*. University of Canterbury
[11] Helland, E. & Tabarrok, A. (2007) *Does Three Strikes Deter? A Nonparametric Estimation*. Journal of Human Resources, Vol XKII (2) pp 309-330; Datta, A. 2017. *California's Three Strikes Law Revisited: Assessing the Long-Term Effects of the Law*, Atlantic Economic Journal, Springer; International Atlantic Economic Society, vol. 45(2), pages 225-249, June.
[12] Chen, E. (2008) *Impacts of "Three Strikes and You're Out" on Crime Trends in California and Throughout the United States* Journal of Contemporary Criminal Justice Volume 24 Number 4 November 2008 345-370. Jones, J. (2012) *Assessing the Impact of 'Three Strikes' Laws on Crime Rates and Prison Populations in California and Washington*. Inquiries Journal, Vol 4, Issue 9
13 Iyenga, R. (2008) *I'd rather be hanged for a sheep than a lamb: the unintended consequences of 'three-strikes' laws* National Bureau of Economic Research Working Paper 13784
[14] Gius, M. (2017) *The unintended consequences of three strikes laws: The Impact of Long Term Imprisonments on Family Structures*. International Journal of Sociology of the Family. Vol 43. Nos.1-2 pp17-24
15 Gius, M. (2017) et al
[16] See discussion in Gormley, J., Hamilton, M. & Belton, I. (2022) *The Effectiveness of Sentencing Options on Reoffending*. Sentencing Council
[17] Our estimates suggest this could apply to over 12,000 individuals.
[18] The national drug strategy, published under the last Government, estimates that here are more than 300,000 heroin and crack addicts in England who, between them, are responsible for nearly half of all burglaries, robberies and other acquisitive crime.
[19] See, for example, Ministry of Justice (2013). *Transforming Rehabilitation: a summary of evidence on reducing reoffending* and Scottish Government. (2015). *What Works to Reduce Reoffending: A Summary of the Evidence.*
[20] Hachtel H, Vogel T, Huber CG. *Mandated Treatment and Its Impact on Therapeutic Process and Outcome Factors*. Front Psychiatry. 2019 Apr 12;10:219. doi: 10.3389/fpsyt.2019.00219. PMID: 31031658; PMCID: PMC6474319.
[21] D. Werb, A. Kamarulzaman, M.C. Meacham, C. Rafful, B. Fischer, S.A. Strathdee, E. Wood, *The effectiveness of compulsory drug treatment: A systematic Review*, International Journal of Drug Policy, Volume 28, 2016, Pages 1-9,

[22] Ministry of Justice (2013). *Transforming Rehabilitation :a summary of evidence on reducing reoffending*
[23] Office for Health Improvement and Disparities, (2023). *UK clinical guidelines for alcohol treatment: specific settings and populations*.
[24] Martinelli, T., Strujik, S., Wits, E., Bardendregt, C. Wolf, M. & Nagelhout, G. (2023) *Untapped potential Qualitative research into active factors in the design and implementation of the measure placement in an Institution for Systematic Offenders*
[25] Home Office (2007) *An impact assessment of the Prolific and other Priority Offender programme*. Home Office Online Report 08/07
[26] The Government is already running Intensive Supervision Court (ISC) pilots (previously known as Problem Solving Courts) which combine judicial oversight with wraparound services tailored to individual needs for people who have committed low-level crimes due to unmet health and social needs. There are three pilot sites, two courts focusing on people experiencing problems with drugs and/or alcohol located in Teesside and Liverpool, and a court working with women in contact with the criminal justice system in Birmingham. An interim evaluation is due to be published in early 2025.
[27] Ho et al. (2020). *Racial and Gender Disparities in Treatment Courts: Do They Exist and Is There Anything We Can Do to Change Them*. Jounral for Advancing Justice.
[28] Probation Board Northern Ireland. (2019). *The enhanced combination order*.
[29] Ministry of Justice (2015). *Justice Data Lab Re-offending Analysis: Women's Centres throughout England*.
[30] https://hfe.homeless.org.uk/
[31] Where Fulfilling Lives partnerships have used the Housing First approach, it has resulted in a high level of tenancy sustainment as well as improved outcomes. Moreton, R., Welford, J., Mulla, I and Robinson, S. (2018) *Promising Practice: Key findings from local evaluations to date* CFE Research.
[32] Crisis (2019) *Criminal Justice and Homelessness: Introductory Briefing for Prevention Review Group.* Scotland