

Story of the prison population 1995 – 2009 England and Wales

Ministry of Justice
Statistics bulletin

Published 31 July 2009

Contents

Story of the prison population 1995 – 2009	2
1. What has happened to the prison population since 1995?	4
2. What has caused the changes?	9
Appendix – key legislative and policy changes	10
Explanatory notes	12

Story of the prison population 1995 – 2009

This document is a summary of a set of PowerPoint slides which can be obtained from statistics.enquiries@justice.gsi.gov.uk. It aims to address two questions regarding the prison population of England and Wales:

1. What has happened to the prison population since 1995?
2. What has caused the changes?

Summary

1. What has happened to the prison population since 1995?

Between 1995 and 2009, the prison population in England and Wales grew by 32,500 or 66%. Almost all of this increase took place within two segments of the prison population – those sentenced to immediate custody (78% of the increase) and those recalled to prison for breaking the conditions of their release (16%).

The immediate custodial sentenced population increased after 1995 because the courts sentenced more offenders to prison each year between 1995 and 2002, and because offenders have been staying in prison for longer.

The increase in the recall population reflected both a higher recall rate and longer spent in custody on recall. The higher recall rate was caused by changes to the law making it easier to recall prisoners, and changes introduced in the Criminal Justice Act 2003 which lengthened the licence period for most offenders. Recall prisoners have stayed in custody for longer, partly reflecting the increase in licence periods and also because, prior to the introduction of Fixed Term Recalls in 2008, the Parole Board were required to review all recall cases.

Other elements of the prison population accounted for only 6% of the total increase since 1995. The numbers in prison for breach of non-custodial sentences and non-criminals¹ grew rapidly, but remained small in total. The remand and fine defaulter populations increased and decreased slightly respectively; with the remand population large but relatively stable at around 12-13,000, and the fine defaulter population declining sharply to very low levels (around 100 since 2001).

¹ Persons held under the Immigration Act plus those held for civil offences such as contempt of court and non-payment of child maintenance

2. What has caused the changes?

Two factors caused the increase in the prison population of England and Wales from 1995 to 2009: tougher sentencing and enforcement outcomes, and a more serious mix of offence groups coming before the courts.

Legislative and policy changes have made sentence lengths longer for certain offences (e.g. through the introduction of indeterminate sentences for public protection, mandatory minimum sentences and increased maximum sentences) and increased the likelihood of offenders being imprisoned for breach of non-custodial sentences or recalled to custody for failure to comply with licence conditions (as imposed on release from prison).

Two offence groups, violence against the person (VATP) and drugs, have had a particular impact on the prison population. Growth in volumes sentenced for VATP and drug offences has been significant, and these groups also saw increases to their custody rates and in the length of time served in prison (with longer determinate sentences for drugs and increased use of indeterminate sentences for VATP).

1. What has happened to the prison population since 1995?

General trends

While the prison population has grown during most years since World War II, the growth rate increased from an average of 2.5% per year between 1945 and 1995 to an average of 3.8% per year since 1995. The increase in the rate of growth resulted in a 66% increase in the prison population between January 1995 and January 2009 (from 49,500 to 82,100).

Between 1995 and 2009, there have been periods of both rapid growth and relative stability:

- **January 1995 – June 1998** - rapid increase of 16,200 driven by increase in volumes of offenders receiving custodial sentences, as custody rates grew from 22% to 25%; those sentenced for violence against the person (VATP) or drug offences represented one-third of the increased volumes, increasing the proportion of prisoners serving longer sentences of 12 months or more
- **June 1998 – June 2001** - total population relatively stable (up 700); sentenced population grew slightly, but would have increased further without introduction of HDC², due to increasing custody rates from 25% to 27%; rapid growth of recall population following extension of executive recall to medium-term prisoners
- **June 2001 – June 2003** - increase of 7,300 caused by increases in remand, recall and sentenced populations; the increase in the sentenced population was driven by those serving 4 years or more, reflecting a more frequent deployment of longer sentences, again mostly due to more offenders being sentenced for VATP and drug offences
- **June 2003 – June 2005** - small increase in prison population of 2,500 due to rises in the sentenced, recall and breach populations; sentenced receptions were stable, so increase mostly caused by lagged effect of longer sentences handed down in previous years
- **June 2005 – January 2009** - despite the introduction of ECL³, the population rose a further 5,900 due to lagged effect of previous large

² Home Detention Curfew (scheme under which some offenders are electronically tagged and may be released up to 135 days early)

³ End of Custody Licence (under which some offenders may be released up to 18 days early)

increases of offenders on longer sentences; the recall population increased by a further 61% as length of stay for recalls also increased; decline in HDC caseload and parole rates.

Overall the 66% increase in prison population between 1995 and 2009 was almost all due to increases in two segments of the population – those sentenced to immediate custody (78% of the increase) and those recalled to prison for breaking the conditions of their release (16%):

- Immediate custodial sentenced population – up 25,500 (78% of the total increase)
- Recall population – up 5,300 (16% of the total increase)
- Non-criminal population – up 1,000 (3% of the total increase)
- Breach population – up 800 (3% of the total increase)
- Remand population – up 400 (1% of the total increase)
- Fine defaulter population – down 400 (-1% of the total increase)

Increase in immediate custodial sentenced population

The growth in numbers in prison having been sentenced to immediate custody has been the single most important contributor to the overall growth, representing 78% of the total increase between 1995 and 2009. There were two main reasons behind the growth in this segment of the prison population: (a) the courts sentenced more offenders to prison each year between 1995 and 2002; and (b) offenders have been staying in prison for longer.

(a) Increase in numbers sentenced to immediate custody

From 1995 to 2002, increasing numbers of adult⁴ offenders were sentenced to immediate custody for indictable offences⁵, with the annual volume rising by around 23,000 by 2002. This was partly due to an increase in total numbers being sentenced – the total number of adults sentenced by the courts for indictable offences fluctuated between 255-290,000 annually, peaking in 1998 and 1999 and again in 2002 and 2003.

As well as increases in numbers sentenced leading to more immediate custody, there was also an increase of over a quarter in the immediate

⁴ Aged 18 and over

⁵ These cases include Indictable only offences which are more serious in nature and tried at the Crown Court, or Triable-Either-Way which can be tried at the Crown Court or at magistrates' courts

custody rate⁶ for indictable offences, up from 22% in 1995 to 28% in 2002. Since 2002, custody rates have stabilised between 26% and 28%.

The increase in the immediate custody rate is part of a wider trend of tougher sentencing outcomes. In addition to the immediate custody rate increasing, use of suspended sentences increased more than ten-fold from under 1% to 10% between 1995 and 2007 (due to the introduction of SSOs in 2005), and use of fines declined.

(b) Increase in time served in custody

From 2000 to 2008, the average time served in prison increased by 14% (from 8.1 to 9.3 months) for those released from determinate sentences⁷. This was due to a 15% increase in the average custodial determinate sentence length handed down by the courts between 2000 and 2004, and a decline in the parole release rate from 06/07 (which meant that offenders had served longer by the time they were released).

Between 1995 and 2000, the average custodial sentence length handed down for indictable offences across all courts decreased, but from 2000 to 2004, increased by 15% from 14.3 to 16.4 months. Since 2004, average sentence lengths have decreased, which may be a result of switching from longer determinate sentences to Indeterminate sentences for Public Protection (IPPs) introduced in 2005. The majority of those now getting IPPs would previously have received a long determinate sentence and these longer sentences are now excluded from the average determinate sentence length.

The decline in parole rate, and impact of a growing proportion of longer sentences in the prison population, caused a slight increase in the average proportion of determinate sentence served in custody from around 56-57% between 1999 and 2005 to around 60-61% in 2006-2008. This occurred despite the introduction of the End of Custody Licence scheme in June 2007 which has had limited impact on the average time served because it only reduces the time served by a maximum of 18 days, and only affects those serving shorter sentences (4 weeks to less than 4 years).

There has also been a steady increase in the number of lifers, while the overall indeterminate population increased rapidly after IPPs were introduced in 2005. The proportion of the sentenced prison population serving indeterminate sentences (life sentences or IPPs) increased from 9% in 1995 to 19% in 2009. Taking determinate sentences of 4 years or more together with indeterminate sentences, the population serving these long sentences

⁶ The number of offenders sentenced to immediate custody as a proportion of all those sentenced by the courts

⁷ Excluding those on life or other sentences with unspecified end points – i.e., ‘indeterminate’ sentences

increased by 17,700 between 1995 and 2009, representing 55% of the total population increase over the period.

The full impact of the increased proportion of IPPs has not been seen yet, as many would have received determinate sentences of 4 years or more.

Increase in recall population

The second largest increase was within the recall population which rose by 5,300 between 1995 and 2009, and accounted for 16% of the overall increase in prison population over the period.

Changes to the law have meant that more offenders are liable to be recalled, and to spend longer in custody having been recalled.

Growth in the recall population began in 1999, reflecting changes introduced under the Crime and Disorder Act 1998 which extended executive recall to medium-term sentences of 12 months to less than 4 years, making it easier to recall these prisoners (previously they could only be recalled by the Probation Service through the courts).

The Criminal Justice Act 2003 (CJA03), introduced in April 2005, included changes to the recall process. The licence period for determinate sentences of 12 months or more was extended to the end of sentence, whereas previously it had ended at the three quarters point. Similarly, recalled offenders were now liable to serve 100% of their original custodial sentence (previously this had been 75%). In addition, the CJA03 introduced a requirement for the Parole Board to review all recall cases, resulting in low rate of re-release. These changes contributed to increases in the average length of time spent in prison on recall.

The Criminal Justice and Immigration Act (2008) introduced Fixed Term Recall under which some offenders are recalled for a fixed 28 day period; this has led to a small fall in the recall population.

Changes in other segments of the prison population

Other elements of the prison population accounted for only 6% of the total increase since 1995.

The numbers in prison for breach of non-custodial sentences have grown rapidly since 1995, but remain relatively small – up 470% since 1995, but only contributing 800 of the overall increase in prison population. The increase was driven by improved enforcement as probation officers made sustained efforts to improve enforcement of breaches, increasing the number of offenders entering prison for breaching community or suspended sentences.

Similarly the non-criminal⁸ population grew rapidly, but remained small in total, rising by 170% or 1,000 between 1995 and 2009.

The remand population has fluctuated, reflecting the behaviour of remand receptions, but remained large at around 12-13,000.

The fine defaulter population was around 500 in January 1995 but declined rapidly to very low levels following the Cawley judgement in 1995 which determined that custody could only be imposed on fine defaulters following an active consideration of all fine enforcement measures by the courts. This led to the release of a number of fine defaulters (who had been imprisoned 'unlawfully') and a 70% fall in the numbers imprisoned for defaulting on a fine between 1995 and 1997. Since 2001 the fine defaulter population has remained relatively steady at around 100.

⁸ Persons held under the Immigration Act plus those held for civil offences such as contempt of court and non-payment of child maintenance

2. What has caused the changes?

Two factors caused the increase in the prison population of England and Wales from 1995 to 2009: tougher sentencing and enforcement outcomes, and a more serious mix of offence groups coming before the courts.

Legislative and policy changes have made sentence lengths longer for certain offences (e.g. through the introduction of IPPs, mandatory minimum sentences and increased maximum sentences) and increased the likelihood of offenders being imprisoned for breach of non-custodial sentences or recalled to custody for failure to comply with licence conditions (as imposed on release from prison).

The remainder of the prison population increase reflects the increased seriousness of cases coming before the courts. Two offence groups, violence against the person (VATP) and drug offences, have had a particular impact on the prison population. Increases in both the numbers sentenced and the use of custodial sentences mean more of these offenders are entering prison. For VATP offences, the volume sentenced increased by 30% between 1995 and 2007 while the custody rate rose from 31.9% to 33.3% over the same period. Similarly for drug offences, the total volume sentenced rose by 41% while the custody rate rose from 17.3% to 20.3%.

Once in prison these offenders are spending longer there, as reflected in longer average determinate sentence lengths for drug offences, and greater use of indeterminate sentences for VATP offences. Additionally, offenders who have committed serious crimes are less likely to be eligible to be released early on HDC, ECL or on licence.

Appendix – key legislative and policy changes

Legislative and policy changes have contributed to more stringent outcomes, making sentence lengths longer for certain offences and increasing the likelihood of a breach of non-custodial sentence or licence conditions resulting in prison. Others have been expected to reduce the prison population.

The following list highlights the main changes introduced between 1995 and 2008 and how they impacted the number of prison receptions and/or length of stay; the list is not exhaustive.

1996: Offensive Weapons Act

- Increased maximum penalties for weapons offences (impact on length of stay)

1997: Crime (Sentences) Act

- Mandatory minimum 3-year sentence for 3rd domestic burglary
- Mandatory minimum 7-year sentence for 3rd Class A drug trafficking offence
- Automatic life sentences for 2nd serious sex or violent offences

(all impact on length of stay)

1999: Crime and Disorder Act (1998)

- Medium term prisoners now eligible for executive recall (impact on receptions)

2005: Criminal Justice Act (2003)

- Licence period lengthened, increasing likelihood of recalls (impact on receptions)
- Suspended sentences were made much more available, increasing breach population (impact on receptions)
- Breach sentences must now be more onerous than that breached (impact on receptions)
- Introduced release at the halfway point for offenders serving determinate sentences of 4 years or more (impact on length of stay)
- Minimum mandatory 5-year sentence for possession of illegal firearms offences (impact on length of stay)

- Introduction of indeterminate and extended sentences for public protection (IPP and EPP), which have since been popular with sentencers (impact on length of stay)
- Parole Board must now review all recall cases; the re-release rate of recalled offenders has been low (impact on length of stay)

2007: Simple, Speedy, Summary Justice

- Reductions in pre-trial reviews and increased use of PNDs, frees up court time for other cases (impact on receptions)
- More early guilty pleas lead to reduced sentence lengths (impact on length of stay)

2007: Bail Accommodation Support Scheme

- Support for some offenders held on remand enabling them to be bailed (impact on receptions)
- Support for some offenders enabling them to be released on HDC (impact on length of stay)

2007: End of Custody Licence

- Certain non-violent offenders released up to 18 days early (impact on length of stay)

2008: Road Safety Act (2006)

- Introduced new offences of causing death by careless driving or while uninsured (impact on receptions)

2008: Criminal Justice and Immigration Act

- Changes to rules for IPPs introducing a minimum tariff of 2 years
- Most prisoners released automatically at halfway point and on licence until the end of their sentence
- Fixed term recalls (for 28 days) introduced for certain prisoners

(all impact on length of stay)

2008: Tackling Knives Action Plan

- Expectation of prosecution and tougher sentencing for possession of knives and offensive weapons (impact on receptions and length of stay)

Explanatory notes

Data sources and quality

The figures in this publication have been drawn from administrative IT systems which, as with any large scale recording system, are subject to possible errors with data entry and processing.

Unless otherwise stated, numbers in the text have been rounded for ease of reading using the following rules:

- Numbers of 100,000 and over are rounded to the nearest 1,000
- Numbers from 1,000 – 99,999 are rounded to the nearest 100
- Numbers from 10 – 999 are rounded to the nearest 10
- Numbers under 10 are unrounded.

Related publications

Regular statistics about sentencing and about offender management caseloads (describing the population in prison establishments, and the workload of the Probation Service), in England and Wales, are available at the following website: www.justice.gov.uk/publications/statistics.htm

Contact points for further information

Press enquiries should be directed to the Ministry of Justice press office:

Tel: 020 3334 3536

Other enquiries about these statistics should be directed to:

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Offender Management and Sentencing – Analytical Services
7th Floor
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London
SW1H 9AJ

General enquiries about the statistical work of the Ministry of Justice can be e-mailed to: statistics.enquiries@justice.gsi.gov.uk

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