



Managing increasing prisoner numbers in Scotland

Report supplement: Comparisons with other countries



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Auditor General for Scotland

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Part 1. Introduction

Background

1. According to the European Institute for Crime Prevention and Control: “*Prison overcrowding and escalating prison populations remains as one of the most significant challenges that confront countries worldwide.*”¹
2. In May 2008 Audit Scotland published a report on how Scotland is managing the demand for increasing prisoner places in Scotland.² One of the objectives of the study was to review other countries’ approaches to managing prisoner numbers.
3. The purpose of this paper is to review: how prisoner populations compare among different countries; levels of overcrowding and the effects on prisoners, and other countries’ approaches to managing prisoner numbers. Due to lack of valid information or doubts over the comparability of data, certain areas - including prison staffing levels, sentence lengths, and the costs of accommodating prisoners and building new prison capacity - are not included in this paper.

Selection of other countries

4. Interpreting international data is difficult as various changing socio-political, historical and demographic factors need to be taken into account. This is the case for prison and wider criminal justice data where differences in sentencing practices, prisoner populations, organisational responsibilities and definitions of key concepts (for example: “prisoner place”) make valid comparisons difficult.
5. In order to maximise the validity of international comparisons the paper focuses primarily on 17 Western European countries which contribute to the Council of Europe’s Annual Penal Statistics (SPACE):³
 - Austria
 - Belgium
 - Denmark
 - England and Wales
 - Finland
 - France
 - Germany
 - Italy
 - Netherlands
 - Northern Ireland
 - Norway
 - Portugal
 - Republic of Ireland
 - Scotland
 - Spain
 - Sweden
 - Switzerland.

¹ *World Prison Population: Facts, Trends and Solutions. HEUNI Paper No. 15.* The European Institute for Crime Prevention and Control, 2001.

² *Managing increasing numbers in Scotland.* Audit Scotland, May, 2008. The report is available at: www.audit-scotland.gov.uk

³ Council of Europe Annual Penal Statistics (SPACE 1) Survey 2006. University of Lausanne, December 2007.

6. The Council of Europe specialises in obtaining comparable data from all member states and is therefore a robust data source. The latest SPACE report, published in December 2007, provides a “snapshot” of prisoner numbers across various countries on 1 September 2006. In order to provide a wider comparison, we have also included information on prisoner numbers from various countries from other parts of the world - for example the US, Australia and New Zealand. This information was largely taken from the International Centre for Prison Studies’ (ICPS) website.⁴

⁴ The International Centre for Prison Studies - based at King’s College, University of London - was established in 1997 to assist governments and other relevant agencies to develop appropriate policies on prisons and the use of imprisonment

Part 2. Prisoner numbers and overcrowding

Overall prisoner numbers across the world are increasing

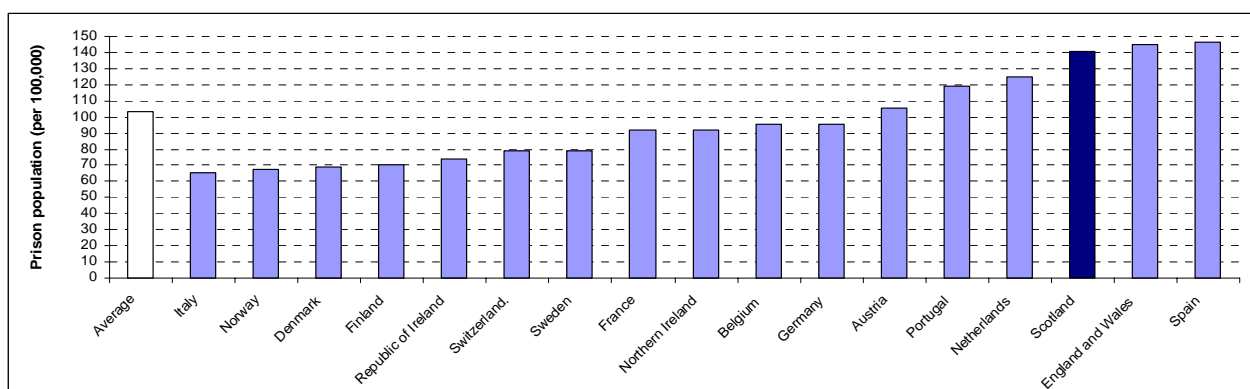
7. The total world prison population is growing. Between November 1998 and June 2004 the prisoner populations in two thirds of all countries increased and the number of people held in prisons worldwide increased by one million to 9.1 million. However, there were marked differences among individual countries. Between 1992 and 2004 the prisoner populations in 50 countries increased by more than half. These included England and Wales (67 per cent) and the US (65 per cent).

Scotland's imprisonment rate is among the highest in Western Europe

8. The average (mean) rate of imprisonment of the 17 selected western European countries contributing to SPACE statistics was 104 per 100,000 of the population. Imprisonment rates ranged from a high of 146 per 100,000 in Spain to 65 per 100,000 in Italy (Exhibit 1). Scotland's imprisonment rate - 141 per 100,000 - was the third highest, just behind England and Wales and more than double the rates of Denmark and Norway.⁵

Exhibit 1 Prisoner numbers per 100,000 population (Western Europe)

Scotland has a high imprisonment rate compared with other countries



Note: Dates for individual countries vary

Source: ICPS, 2008

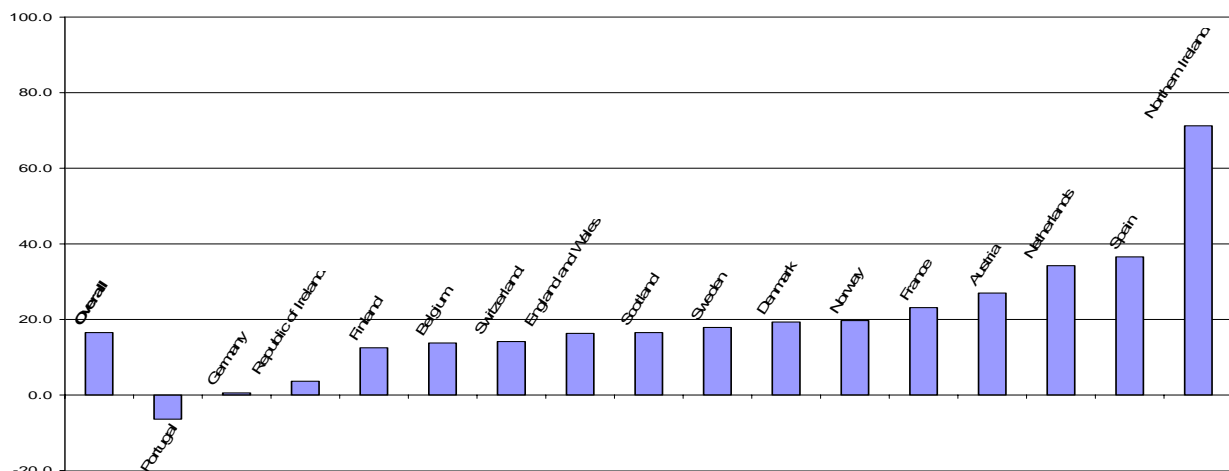
⁵ Council of Europe Annual Penal Statistics - SPACE 1. 2006 Survey on Prison Populations. Council of Europe, December 2007.

The increase in Scotland's prisoner population is in line with the Western European average

9. In the five years to 2006 the number of prisoners in Western Europe (excluding Italy) increased by 16.5 per cent from around 314,000 to around 366,000 (Exhibit 2).⁶ The highest rates of increase were in Northern Ireland (71 per cent), Spain (37 per cent) and The Netherlands (34 per cent). The increase in Scotland (16.5 per cent) was in line with the Western Europe average. Prisoner numbers in Germany remained largely unchanged and only Portugal reported a decrease.

Exhibit 2 Percentage increase in prisoner numbers between 2001 and 2006 (Western Europe)

Prisoner numbers increased in every country except Portugal



Source: 2006 Survey on Prison Populations. Council of Europe, December 2007

The US imprisons 1 in every 100 adults

10. The United States imprisons more people per head of population than any other country in the world. In January 2008 there were around 2.3 million prisoners in American prisons. This represents an imprisonment rate of 750 per 100,000 of the population as a whole and this means that one in every 100 adults in the US is in prison.⁷ The US has around five per cent of the world's population but holds around a quarter of the world's prisoners.
11. In the US, the prison system is separated into national or federal prisons and local jails. Between 1987 and 2007 the national prison population almost tripled from around 580,000 to around

⁶ Note: Data for Italy were excluded as they were not comparable. Juveniles were included in the 2001 figures but not in 2006.

⁷ *One in 100: Behind Bars in America 2008*. The Pew Center on the States, January 2008.

1.6 million. The increase in prisoner numbers in the US is due to policies such as the “three strikes” measures and “the war on drugs” rather than increases in crime or the size of the overall population.

12. After the US, the next two largest prisoner populations are in: China, which holds an estimated 1.5 million prisoners (although there may be another one million pre-trial detainees and prisoners on “administrative detention”) - an imprisonment rate of 189 per 100,000; and Russia, which holds around 885,000 prisoners (a rate of 625 per 100,000).⁸

There is no clear link between crime rates and imprisonment

13. Researchers have not established a clear link between crime rates and prisoner numbers in Scotland. Although the average prisoner population increased by 37 per cent between 1992 and 2006/07, there was no overall increase in the level of crime reported to the Scottish Crime and Victimization Survey during the same period. During the 1990s the level of reported crime in Scotland fell and has since remained relatively stable. In the same period the number of prisoners increased steadily.
14. Internationally, there is no correlation between crime rates and imprisonment rates; for example, countries such as Sweden have similar or higher crime rates than Scotland but lower imprisonment rates. According to the ICPS:

*The size of a country's prisoner population is generally determined by policy decisions about how a government chooses to respond to crime, rather than being any reflection of actual crime rates.*⁹

There are similarities among different countries in the make-up of their prisoner populations

15. Prisoner populations can be separated into various categories - although these are not mutually exclusive - including males and females, untried and convicted prisoners, ethnic minority groups, and foreign prisoners. The size of these categories in individual countries may reflect the respective general populations (for example, the ethnic minority population) or varying approaches to criminal justice - for example, the use of remand.¹⁰

⁸ Note: There are two types of administrative detention in China, one for drug offenders and prostitutes and the other involving “re-education-through-labour camps”

⁹ *Guidance Note 4: Dealing with prison overcrowding.* ICPS, King's College London, 2004.

¹⁰ In Scotland, remand prisoners include untried prisoners and convicted prisoners who are waiting to be sentenced.

In Western Europe, around one in 20 prisoners is female

16. In Scotland the reported imprisonment rates in 2003 were over 20 times higher among males (237 per 100,000) than females (10 per 100,000).¹¹ In 2006, five per cent of Scotland's total prisoner population was female - this is in line with the Western European average. Among the selected 17 Western European countries the percentage of the prison population which is female ranged from around three per cent in both Northern Ireland and the Republic of Ireland to around eight per cent in Spain.
17. In the ten years between 1996/97 and 2005/06 the female prisoner population in Scotland increased by over three quarters while the male prisoner population increased by just over a tenth. A significant increase in female prisoners has also been reported in England and Wales. Between 1992 and 2002 there was a 173 per cent increase in the female prisoner population, compared with a 50 per cent increase among males.

Many prisoners are from socially-excluded groups

18. Various studies have shown that a high proportion of prisoners come from deprived backgrounds and have significant health, addiction and behavioural problems.
19. In Scotland the overall imprisonment rate for men in 2003 was 237 per 100,000 of the population. However the imprisonment rate from the most deprived two per cent of council wards was around four times this level (953 per 100,000) and the rate among 23-year-old men from these wards was higher still (3,427 per 100,000).
20. Many prisoners in Scotland have significantly greater health and drug addiction problems than the general population. For example:
 - Over 40 per cent of prisoners are likely to have an alcohol problem, four times higher than the general population, and around 80 per cent of prisoners in Scotland smoke compared with around 25 per cent of the general population.
 - Compared with the general population, severe dental decay was three times higher among male prisoners and 14 times higher among female prisoners.
 - Two-thirds of prisoners tested positive for illegal drug use when they were admitted to prison. Around half of prisoners have a history of drug dependence compared with one in ten of the general population

¹¹ *Social Exclusion and Imprisonment in Scotland: A Report*. Roger Houchin, Glasgow Caledonian University, January 2005.

- Seven per cent of prisoners had a history of self-harm, including attempted suicide. Prescribing rates for drugs used in the management of depression and psychosis are more than three times higher among prisoners in Scotland than in the general population.

21. A 2002 report found that many prisoners in England and Wales:¹²

- have no education qualifications and very poor basic skills - between 50 and 80 per cent of prisoners have writing, numeracy and reading skills at or below the level of an 11-year-old child
- have little experience of regular employment - compared with the general population, prisoners are 13 times as likely to be unemployed
- have problems with drug and alcohol addiction - up to 85 per cent of prisoners arriving in prison are assessed as having addiction problems
- lack positive family support.

22. Research indicates that a high proportion of prisoners in England and Wales have significant health problems:

- Around 70 per cent of adult sentenced prisoners suffer from two or more mental disorders compared with around four per cent of the general population.¹³
- Around 45 per cent of sentenced male prisoners aged 18-49 have a long-standing illness or disability compared with 29 per cent of a similar age group in the general population.¹⁴

23. Similar patterns are found elsewhere - for example, a breakdown of the prison population in the Netherlands showed that 70 per cent were unemployed, 60 per cent had a mental health disorder and 10 per cent had been in a psychiatric hospital.

Ethnic minorities and foreign nationals account for disproportionately high numbers of prisoners

24. In 2005 around 2.5 per cent of prisoners in Scotland were from ethnic minority groups. This was broadly similar to percentage of ethnic minorities in the general population (just over two per cent in the 2001 census). However, a common feature among other countries is the disproportionately high number of ethnic minority prisoners. In England and Wales, around one in five male prisoners are black and minority ethnic men - this is between two and three times the proportion in the general

¹² *Reducing re-offending by ex-prisoners*. Social Exclusion Unit, July 2002.

¹³ *Psychiatric Morbidity among Prisoners in England and Wales*, N Singleton, H Meltzer, R Gatward, J Coid and D Deasy, Office for National Statistics, 1998.

¹⁴ *Survey of the physical health of prisoners 1994*. A Bridgwood and G Malbon, HMSO 1995.

population. Corresponding figures for black and minority ethnic women are even higher - they account for a quarter of the female prisoner population which is three times the proportion in the general population.

25. A number of other countries have also reported higher than average imprisonment rates among various ethnic minority groups - for example:
 - In the US, imprisonment is heavily concentrated among racial and ethnic minorities. In January 2008, one in 54 men aged 18 or over was in prison. For white men, the figure was one in 106, for Hispanic men the figure was one in 36, and for black men the figure was one in 15. Black males aged 20-34 had the highest imprisonment rate - one in nine of the general population.¹⁵
 - In Australia the imprisonment rate among the indigenous population in 2003 was 1,888 per 100,000 - almost 16 times higher than the equivalent figure for the non-indigenous population (119 per 100,000)
 - In New Zealand, Maoris account for around one in seven of the population but in 2003 almost half the prisoner population were Maoris.
26. According to a report by the UK Government's Social Exclusion Unit, the over-representation of ethnic minority prisoners may be due to people from such backgrounds having relatively high social exclusion problems.¹⁶ Such problems include: living in a deprived area; high poverty levels; being taken into care as a child; and being excluded from school.
27. In September 2006, around one in four prisoners across the selected Western Europe countries were foreign nationals. These figures include convicted and untried prisoners. The percentage of foreign prisoners varied widely among individual countries, from less than two per cent in Scotland to around 70 per cent in Switzerland. Therefore, Scotland's relatively high imprisonment rate is not due foreign nationals which implies that Scotland currently sends a proportionally higher number of its own citizens to prison than our European neighbours.

The proportion of remand prisoners varies among Western European countries

28. In 2006/07, the average number of remand prisoners in Scotland was around 1,600 which represented an increase of around 80 per cent since 2000/01. During this period the proportion of remand prisoners increased from around one in six of the average prisoner population to around one in five.

¹⁵ *Creating criminals*. Vivien Stern, 2006.

¹⁶ *Reducing re-offending by ex-prisoners*. Social Exclusion Unit, July 2002

29. In 2006/07 around 85 per cent of the average remand population in Scotland were untried prisoners. In September 2006, the average number of untried prisoners among the 17 selected SPACE countries was 22 per 100,000 of the general population. Rates varied considerably from nine per 100,000 in Finland to 36 per 100,000 in Northern Ireland. The untried remand rate in Scotland (27 prisoners per 100,000 population) was one of the highest and was significantly higher than in England and Wales (15 per 100,000 population).

A relatively high number of UK prisoners are young offenders

30. Across the UK around 15 per cent of the prisoner population are young offenders (aged under 21). This is around double the SPACE average.
31. The three prison services in the UK also hold some of the highest percentages of prisoners under 18 - around 4 per cent in Northern Ireland and around 3 per cent in both Scotland and England and Wales. The average among the 17 selected SPACE countries was 1.5 per cent. The UK rates are considerably higher than in some other countries - for example, 0.1 per cent in Finland and 0.2 per cent in both Sweden and The Netherlands. This is likely to be a result of laws in other countries preventing the imprisonment of people under 18, except in exceptional circumstances.

Prison overcrowding is widespread throughout the world

32. According to ICPS, there is no internationally accepted definition of prison overcrowding.¹⁷ However, ICPS uses a “working definition” of overcrowding as: “...prisons... holding more prisoners than they were designed for.” Of the ICPS list of 178 countries with available information, almost two thirds (113 countries) have a prisoner population which exceeds the prison design capacity.

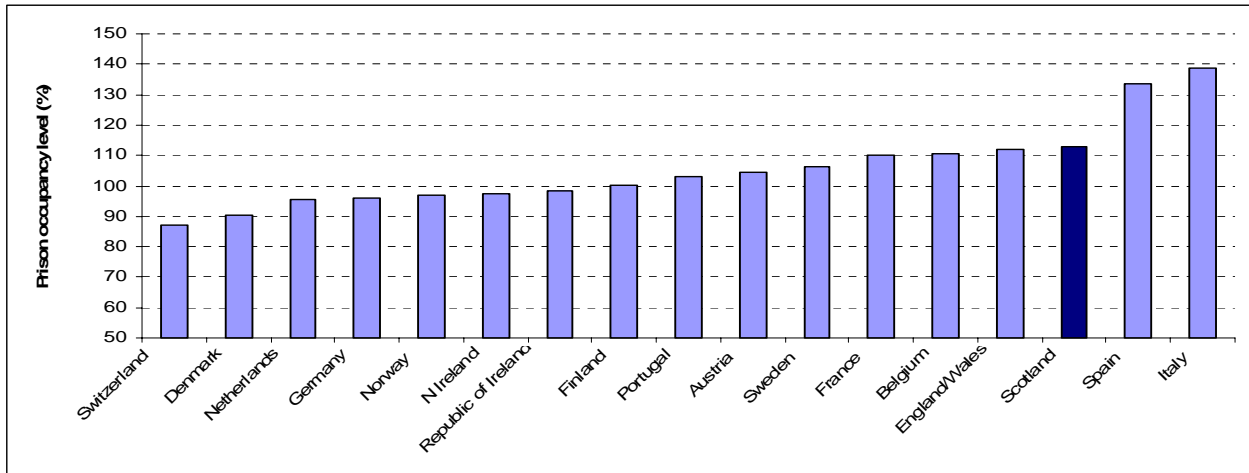
Scotland has one of the highest overcrowding rates in Western Europe

33. In early February 2008, there were around 7,500 prisoners in Scotland’s prisons. With a design capacity of around 6,600 prisoner places, this represented an occupancy level of 113 per cent. At that time, 11 out of Scotland’s 14 prisons were overcrowded. This overall level of overcrowding was similar to prisons in England and Wales but higher than most other countries in Western Europe (Exhibit 2).

¹⁷ Guidance Note 4: Dealing with prison overcrowding. ICPS, King’s College London, 2004.

Exhibit 2 Prison overcrowding levels - Western Europe

Scotland has one of the highest prison overcrowding rates in Western Europe



Note: Dates for individual countries vary

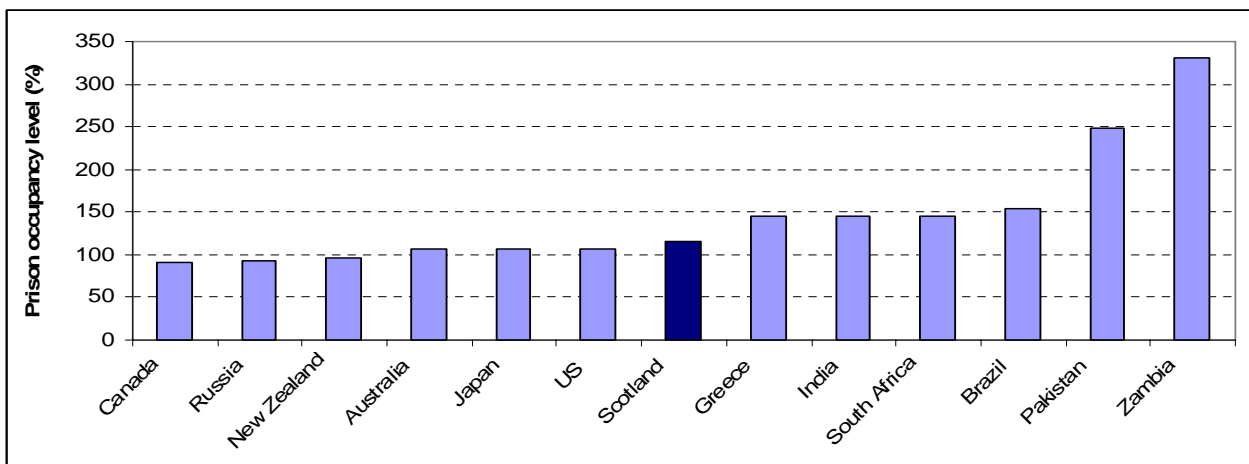
Source: ICPS, 2008

Overcrowding is significantly higher in countries outside Western Europe

34. Some countries outside Western Europe have significantly higher prison occupancy levels - for example Greece (142 per cent), Pakistan (248 per cent) and Zambia (331 per cent) (Exhibit 3).

Exhibit 3 Prison overcrowding levels - selected countries outside Western Europe

The level of prison overcrowding varies widely across the world



Note: Dates for individual countries vary

Source: ICPS, 2008

Overcrowding can have significant negative effects on prisoners and staff

35. According to the ICPS, prison overcrowding can:¹⁸
- violate fundamental human rights, such as the right to life and personal security
 - have potentially dangerous public health effects, such as spreading infectious diseases
 - adversely affect prisoners' mental health
 - create a dangerous environment for prison staff
 - impair prisons' ability to follow minimum requirements to keep different categories of prisoner separate - men and women, young offenders and adult prisoners, pre-trial and convicted prisoners.
36. Overcrowding may also put pressure on prison services such as kitchens and laundries, and on utilities such as water supplies. Access to activities such as work, education and physical education may be affected if there are insufficient facilities.
37. In Scotland, overcrowding has a number of negative effects on prisoners:¹⁹
- Around half of prisoners share cells with other prisoners, and around a fifth share cells designed for one person.
 - Sharing accommodation with different categories of prisoner can lead to tension among prisoners.
 - Prisoners may be locked in their cells for long periods due to a lack of access to activities.
 - Problems with the assessment of prisoners' rehabilitation needs may hinder access to activities aimed at reducing re-offending.
 - High prisoner numbers can affect prisoners' contact with their families.
 - Prisoners have significant health problems and high numbers put pressure on healthcare resources.
 - Remand and short-term prisoners are most affected by overcrowding - for example, they are more likely to have to share cells, and they have less access to activities.

¹⁸ *Guidance Note 4: Dealing with prison overcrowding.* ICPS, King's College London, 2004.

¹⁹ *Managing increasing prisoner numbers in Scotland.* Audit Scotland, May 2008.

38. Similar effects were found among prisoners in England and Wales.²⁰

- High prisoner numbers increased the likelihood of prisoners being moved to other prisons to free up space. This disrupted activity such as education which are intended to reduce re-offending.
- Around two in five prisoners share cells, and around one in five share cells intended for fewer prisoners - for example, two prisoners sharing single cells.
- Prisoners considered that overcrowding limited access to medical and dental services, and put pressure on the visit system.

²⁰ *National Offender Management Service: Dealing with increased numbers in custody.* National Audit Office, October 2005.

Part 3. Approaches to managing prisoner numbers

39. According to the ICPS, there are two long-term solutions for managing prisoner numbers: increase the capacity of the prison system or reduce the number of prisoners.²¹ In the short term, overcrowding can be reduced by moving prisoners to other prisons or by allowing certain categories of prisoner to spend parts of their sentence in the community.
40. This part of the report looks at the range of approaches which different countries have used to accommodate, limit or reduce the size of their prisoner populations, and the effects these approaches have had on prisoner numbers:
- building extra capacity
 - using community sentences as alternatives to prison
 - limiting the number of prisoners
 - introducing new legislation.

Building extra prison capacity to accommodate rising prisoner numbers is expensive

41. In its 2002 Estates Review, the Scottish Prison Service (SPS) recognised that “*much of the existing accommodation is Victorian and in poor condition.*”²² SPS estimated that 3,300 prisoner places would be required in the subsequent 10 years to replace outdated facilities and accommodate a projected increase in prisoner numbers. Since 2002 SPS has spent around £300 million redeveloping the prison estate. This funding has been concentrated on four prisons, but other prisons have benefited from smaller-scale investment. Since 2002, SPS has provided around 2,700 prisoner places but the capacity has remained largely unchanged as the new accommodation has replaced outdated facilities.
42. There are plans to increase prison capacity in Scotland by around 1,900 places by the end of 2013 by providing new accommodation at existing prisons and building three new prisons. SPS estimates that the capital construction cost of a new 700-place prison is around £100 million and that it may

²¹ *Guidance Note 4: Dealing with prison overcrowding.* ICPS, King's College London, 2004.

²² *The Scottish Prison Service Estates Review.* Scottish Prison Service, March 2002.

take at least six years to build a new prison (including site acquisition, planning permission and procurement). Due to a range of factors - for example, current accommodation may become obsolete, prisoner numbers may increase to higher than projected levels, and the effects of new legislation - there may not be sufficient capacity to accommodate projected prisoner numbers in the next nine years.

43. The prison service in England and Wales has increased the prison capacity in response to rising prisoner numbers. In February 2008 the prisoner population was around 82,000 - the highest level ever recorded. Between 1997 and 2007, 20,000 prisoner places were created, including nine new prisons. The prison service used a range of long-term and temporary solutions - including the use of a prison ship - to accommodate the rising number of prisoners.
44. The prisoner population in England and Wales is projected to increase further to between 88,000 and 102,000 by 2014. In December 2007 the UK Secretary of State for Justice announced a programme for building a further 10,500 prisoner places to be delivered by 2014. The programme, which has an estimated capital cost of around £2.3 billion, includes redeveloping existing prison sites, closing outdated prisons and building up to three "Titan" prisons which could each accommodate around 2,500 prisoners.
45. The US has historically based its criminal justice policy on the use of prison. In 2007 the 50 US states spent over \$44 billion on imprisonment which was four times the corresponding figure in 1987. California, which holds around 170,000 prisoners, was the highest spender (\$8.8 billion) and in 2007 the state governor authorised an additional \$7.9 billion to provide another 53,000 prisoner places.²³

Various countries have used community sentences as alternatives to prison

46. In 2005 the Scottish Parliament's Justice 1 Committee reviewed community sentences such as probation and community service in several countries and concluded that: "*The current international evidence suggests that community disposals are at least as effective in reducing offending behaviour as short-term (prison) sentences and have greater cost effectiveness.*"²⁴
47. Scotland has a range of community sentences which may be used as alternatives to prison. In recent years there has been a higher increase in the number of community sentences imposed by

²³ One in 100: Behind Bars in America 2008. The Pew Center on the States, January 2008.

²⁴ A comparative review of alternatives to custody: lessons from Finland, Sweden and Western Australia. Scottish Parliament Justice 1 Committee Report, April 2005.

the courts than in the number of prison sentences, and the use of all community sentences has increased by more than a half.

48. In Scotland, spending on the main community sentences in the five years to 2006 rose by 80 per cent from £19 million to £34 million. Community sentences may be less costly than prison but their availability varies across the country. There is some evidence that community sentences are at least as effective as prison sentences in reducing re-offending. In November 2007 the Scottish Government published an action plan to increase the understanding and use of community sentences by improving their quality, visibility and effectiveness.²⁵
49. Over the last 50 years Finland has introduced a range of approaches to reduce its prison population. These include reduced sentence lengths for certain offences such as theft and drink driving; the introduction of community sentences as direct alternatives to custody; and extending the parole system. The Finnish reforms were aided by consensus among politicians and support from the media and sentencers. The imprisonment rate in Finland fell from around 200 prisoners per 100,000 of the population in the 1960s to around 60 per 100,000 in the 1990s.
50. Finland has taken steps to ensure that community sentences are direct alternatives to prison rather than alternatives to fines. Courts may convert prison sentences of eight months or less to community sentences and in such cases a formula is used to translate one day of a prison sentence to one hour of community service. This is intended to ensure consistency, fairness and transparency.
51. In the US, the spending on imprisonment has risen faster than spending on other areas - for example, between 1987 and 2007 spending on imprisonment increased by 127 per cent while spending on higher education increased by 21 per cent. Some states - including some with reputations for "tough" sentencing - have reacted to this situation by limiting the use of prison to high-risk and violent offenders and using non-prison alternatives for those found guilty of less serious offences. States which have adopted this strategy include Texas and Kansas (Exhibit 4).

²⁵ *Reforming and Revitalising: Report of the Review of Community Penalties*. Scottish Government, November 2007.

Exhibit 4. Use of non-prison alternatives in the US

Case studies: Texas and Kansas

Texas

Between 1985 and 2005 the Texas prisoner population increased by 300 per cent. The state spent \$2.3 billion to add 108,000 prisoner places. However prisoner numbers continued to increase. In 2007 legislators decided that instead of spending over \$500 million to further increase prison capacity, they would introduce changes to the criminal justice system - for example, expanding drug treatment. These changes are expected to save the state \$210 million over the next two years plus a further \$233 million if re-offending rates decrease and the state is not required to build three new prisons.

Kansas

In 2006 the Kansas prisoner population was expected to increase by 22 per cent by 2016. To accommodate these prisoners, the state would need to spend almost \$500 million on new prisons. In response to a survey to gauge public attitudes about such spending, most Kansans favoured some prison construction with probation programmes to help less serious offenders in the community. State legislators have introduced a strategy to reduce the number of offenders who are sent to prison for violating parole or probation.

Source: *One in 100: Behind Bars in America 2008*. The Pew Center on the States, January 2008

Limiting prisoner numbers can help to avoid or alleviate overcrowding

52. In Scotland, the prison service uses two strategies which allow a number of prisoners to serve parts of their sentences in the community:

- Home Detention Curfew (HDC) allows short-term prisoners who have been assessed as presenting a low risk of re-offending to be released to serve the final part of their sentences in the community. Prisoners on HDC may be released between 14 days and 6 months earlier than they would otherwise have been.^{26 27} By March 2008 around 3,200 prisoners had been released early using the scheme. In March 2008 there were around 340 prisoners (13 per cent of short-term, low-risk prisoners) on HDC on any one day. It is too early to determine whether HDC has been successful in achieving its aim of re-integrating prisoners into the community but by March 2008 77 per cent of prisoners who had been released on HDC had not been recalled to

²⁶ Under the provisions of the Criminal Proceedings (Scotland) Act 1993, short-term prisoners are released after serving half their sentence. Long-term prisoners (sentenced to four years or more) are entitled to be considered for parole after half their sentence and to automatic release at the two thirds point.

²⁷ Prisoners' compliance with HDC is monitored electronically. The prisoner wears a tag and is restricted to a nominated place (such as his or her home) for a set time each day. If prisoners breach the terms of the curfew, they are returned to prison.

prison. Less than one per cent of recalled prisoners were sent back to prison due to re-offending and only one recalled prisoner had been charged with a serious offence.

- Prisoners at the Open Estate may be eligible to spend one week each month at home to improve their chances of re-integration into the community after they are released.²⁸ Only prisoners who have been assessed as posing a low security risk are held at the Open Estate and further assessments by councils' social work criminal justice teams are required before prisoners are granted home leave. In 2006/07, home leave was extended from three to seven days to increase capacity at the Open Estate. This allows the prison to adopt a system of "continuous cell occupancy" in which four prisoners rotate among three cells, as one of the four will be on home leave at any given time. Extending home leave has increased the number of available places at the Open Estate by around 90.

53. In June 2007 the UK Prime Minister announced that some short-term prisoners in England and Wales would be released 18 days early to ease overcrowding. At that time, the prisoner population had exceeded 81,000 for the first time and early release was intended as a temporary measure while prison capacity was increased. By May 2008 over 23,000 prisoners who were assessed as presenting a low risk to the public had been released early. Of these, less than four per cent - around 800 released prisoners - have broken the terms of their early release.
54. In 2004, the Danish government agreed a maximum prison occupancy level of 92 per cent. When overall occupancy reaches this level, non-serious offenders may wait for up to six months for a prison space to become available before starting their sentence.
55. In Sweden, offenders who are sentenced to prison may apply for intensive supervision (electronic tagging) in the community instead. Between 1997 and 1999, around 3,000-4,000 offenders per year who would otherwise have been sent to prison applied for this penalty and around 90 per cent of applications were granted. As a result, each year around 3,000 offenders received direct alternatives to custody.
56. Finland has a long history of using conditional prison sentences - for example, offenders who are found guilty are not sent to prison if they agree to attend a drug treatment programme. Conditional sentences may be used in conjunction with a fine, and between 1950 and 1990 the number of conditional sentences increased from around 3,000 per year to around 18,000 per year. In 2005 the Scottish Parliament's Justice 1 Committee concluded that conditional sentences were the most effective alternative to prison in Finland.

²⁸ HMP Open Estate holds adult male prisoner in open conditions. These are mainly long-term prisoners - including those serving life sentences - in the lowest supervision level and who are approaching the end of their sentences.

Legislative changes may influence prisoner numbers

57. In Western Australia, the 1995 Sentencing Act prohibiting prison sentences of three months or less was amended to prohibit prison sentences of six months or less. This removed the requirement for prison as a penalty for certain offences and increasing the minimum sentence to nine months for those offences where imprisonment remained an option. However, there appears to be some evidence of longer sentences being imposed than was previously the case. In some instances magistrates were known to have passed prison sentences of just over 6 months to circumvent the new law.
58. As part of its package of penal reforms, Finland carried out a systematic review to identify key crimes which resulted in imprisonment and to amend the legislation where appropriate. In 1977 a new definition of drink driving was introduced which allowed conditional prison sentences and fines to be used instead of unconditional prison sentences. In 1981 70 per cent of people convicted of drink driving were sent to prison; by 1981 this figure had fallen to 12 per cent.
59. In July 2006 Italy passed a law to alleviate overcrowding in its prisons. At that time, there were over 60,000 prisoners in Italy but the design capacity of the country's prisons was only 45,000. It was anticipated that the law, which pardoned prisoners convicted of certain offences, would free around 12,000 prisoners but within the first year over 26,000 prisoners had been released. The new law was controversial as many released prisoners committed offences after being pardoned.

Managing increasing prisoner numbers in Scotland

Report supplement: Comparisons with other countries

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