



National Audit Office

**BRIEFING FOR THE
HOUSE OF COMMONS
JUSTICE COMMITTEE
FEBRUARY 2012**

Ministry of Justice

Comparing International Criminal Justice Systems

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We have produced this briefing for the House of Commons Justice Committee to provide an international dimension to its inquiry into the budget and structure of the Ministry of Justice in England and Wales.

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Introduction

1 We have produced this briefing for the House of Commons Justice Committee to provide an international dimension to its inquiry into the budget and structure of the Ministry of Justice in England and Wales. The briefing compares crime and criminal justice data from a number of different countries and sets out some of the challenges of making such comparisons. It also identifies a number of areas where it may be beneficial for the Ministry or others to do additional comparative work.

2 The briefing focuses on two main types of information. First, there are quantitative analyses of published criminal justice statistics, including data about crime, the courts and prison systems in a number of countries. Secondly, there are reviews of a small selection of recent academic literature on criminal justice subjects, which we looked at in order to provide Committee Members with some insights into the directions being taken in current research.

3 In neither case was our analysis intended to be exhaustive. But, in order to inform our approach, we interviewed a small number of criminal justice experts, including analysts at the Ministry of Justice, about international comparisons of criminal justice systems. We also drew on our experience of making and using international comparisons in our value for money studies on home affairs and justice and on a briefing similar to this one which we published following a request by the Home Affairs Select Committee in 2003. We have not examined specifically how the Ministry of Justice uses international evidence to inform its internal decision-making. Our main aim in putting this briefing together was to demonstrate how, caveats notwithstanding, much valuable information can be extracted from existing criminal justice data and many more useful analyses might be performed.

4 Among the material we reviewed are published documents from national justice and interior ministries and statistics authorities; reports from criminal justice think tanks and academic criminologists; and analyses by major international bodies, such as the United Nations and the Council of Europe.

5 Experts in this field will already be aware of many of the limitations in our analysis. These are caused by incompatibilities in the ways that countries measure crime and punishment. We describe these incompatibilities in depth in the body of our report, and have attempted to minimise the impact they have by choosing carefully the countries we compared and the analyses we carried out.

6 We selected a range of advanced democratic nations for our detailed work, including some common law and non-common law jurisdictions, countries from the European Union and the Commonwealth, and some with reputations either for liberal or punitive justice systems. To enhance our understanding of the United States of America, for which only limited data are available at the federal level, we also included the state of California within our analyses. Accordingly, this briefing focuses on:

- England and Wales;
- Northern Ireland;
- Scotland;
- Australia;
- Canada;
- New Zealand;
- the Republic of Ireland;
- the United States;
- the US state of California;
- Finland;
- France; and
- the Netherlands.

A summary of some key factual information about each of these places can be found at Appendix One, while further information about our methods and a list of the people we consulted, are at Appendix Two.

7 This report is ambitious in scope and consequently in the breadth of issues it raises. Overall, we believe that it shows the importance of international comparisons and the potential they have to improve the value for money of criminal justice systems, including that of England and Wales. At a time of global fiscal restraint, it is tempting for governments to cut back on research and analysis, especially when the results may be only partial or hard to interpret. International comparisons seldom provide answers of the 'silver bullet' variety, but the comparative dimension can provide valuable information about how politicians in different countries tackle similar problems and about long-term trends that require explanation. International comparisons can, however, be very resource intensive and take time to deliver results.

8 Overall, we found that the Ministry of Justice had an admirable record of producing high-quality and timely statistics about the criminal justice system in England and Wales. None of our comparator countries had a more comprehensive or up-to-date set of data. Like justice departments in other countries, however, the Ministry of Justice here has traditionally focused research on domestic issues rather than international comparisons, albeit while contributing fully to projects run by international bodies such as the United Nations and the Council of Europe. Much of what it has done in terms of international analysis has been for internal consumption, aimed at assisting in the development of policy. For instance, it told us that in the last year it had produced or commissioned research with an international dimension on squatting, community orders, sentencing guidelines and prison policy. The Ministry did publish its international review of legal aid in 2011, and this put much useful information into the public domain for the first time; as such, it demonstrates that even when the findings of international comparisons require careful handling, they can still prove compelling and worthwhile.

9 At a high level, this report shows that the criminal justice challenges facing advanced nations are essentially similar. Governments are expected to put in place systems capable of preventing crime, and where these are not effective, to develop other responses to detect and punish it. All developed countries aspire to rehabilitate the criminals they catch to a greater or lesser extent. Yet the responses to crime can vary substantially from place to place, as do the costs of criminal justice systems and the outcomes they achieve.

10 It is beyond the bounds of this piece of work to explain all these variations, and indeed some of them are likely to be inexplicable. Nonetheless, this report indicates a number of areas where productive further research might be carried out: either detailed statistical and analytical research or more qualitative consultations about the approaches adopted in different jurisdictions. We understand that the Ministry of Justice is unlikely to be able to put additional resources into such research at the present time without a clear 'spend to save' rationale; and even then it may struggle to do so. But we advise that it consider carefully the additional work we are suggesting alongside its existing plans and reprioritise accordingly. Think tanks, campaigning organisations and university departments may also want to consider taking some of these analyses forward.

11 Some of the main issues raised by this report are as follows:

- The potential benefit of conducting more research into prison population trends in other countries in order to learn lessons from those with declining prison populations (see page 22).
- The lack of evidence for a clear relationship between the use of prison and changes in crime levels (see pages 25-26).
- The potential benefit of more research into international trends in reoffending, which are almost impossible to compare at present (see page 33)

- The need for better information about the impact of police numbers and other changes in police activity on the recording of crime and reoffending rates (see pages 34-35).
- The potential for justice departments experiencing cuts to learn from one another (see pages 40-41).

12 The body of our report is structured as follows:

- Part One describes the main data sources we are using and the limitations faced by people wanting to compare them;
- Part Two contains a number of comparisons of operational data, for instance on crime trends and prison numbers; and
- Part Three considers the costs of different criminal justice systems around the world, and current attempts to reduce them.

Part One

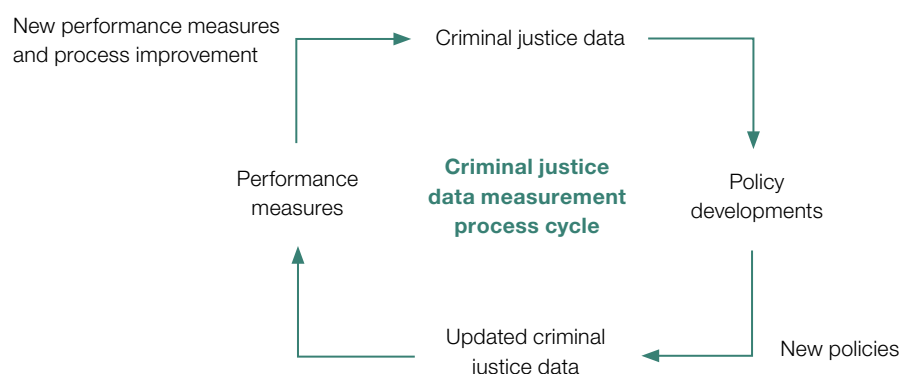
Making international comparisons

1.1 In this Part, we examine the challenges of making international comparisons in the area of criminal justice, as well as some of the potential benefits of doing so.

Using data to make policy

1.2 Politicians and civil servants constantly affirm their desire to make policy on the basis of evidence.¹ This is as true in the area of criminal justice as anywhere. As was observed in a 2010 publication from the European Institute for Crime Prevention and Control, ‘an efficient system for the collection, analysis and dissemination of information on crime and criminal justice is a prerequisite for effective crime prevention’.² The ideal scenario is typically taken to be one in which good data inform the initial setting of policy, while subsequent measuring of effectiveness produces new data that can inform future developments, a cycle as set out in **Figure 1**.

Figure 1
The measurement process cycle



Source: National Audit Office analysis

Benefits of international comparisons

1.3 International comparisons have an important role to play in building understanding of how individual criminal justice systems are functioning. They can also help to improve them. Each jurisdiction has a single criminal justice system, which means that comparative evidence about its performance can usually only be had by looking at systems in other countries, even if this is difficult in practice. Similarly, while policy initiatives in the justice area are sometimes 'home-grown', it is also common for them to be inspired by policies overseas.

1.4 This report has been produced to coincide with the Justice Committee's inquiry on the budget and structure of the Ministry of Justice in England and Wales. That inquiry is looking at the adequacy of the framework within which the Ministry operates at present and at whether it is handling its finances to best effect. Although high-level, it is touching on every aspect of the Ministry's business, including the courts, legal aid, the National Offender Management Service (NOMS) and the Parole Board.

1.5 Seeing these issues within an international context is important, and so the Justice Committee asked us to complete a review of available international criminal justice data and report back. The NAO undertook a similar exercise for the Home Affairs Select Committee in 2003. The findings from our latest analyses are described in Parts Two and Three of this report. But, overall, our observation is that international comparisons remain a valuable tool for criminal justice policymakers, and one to which more consideration might be given in future.

1.6 There is, of course, always much work to be done before a specific comparison can be made to stand up, and before its significance and robustness can be established. Some of the challenges of doing this are described below. The difficulties appear to be greatest often when it comes to comparing the cost-effectiveness of different systems. However, if more effort were to be made to do this (not just by the Ministry of Justice and equivalent departments around the world but also by academics and think tanks), it could produce useful results: for instance, evidence that could be used to inform public debates about what is worthwhile and what is not in criminal justice policy. It was not within the scope of this exercise to produce such evidence, but the NAO would be happy to talk to any organisations that are interested in attempting to do so in the future.

Challenges of making international comparisons

1.7 The main reason why experts often hesitate before embarking on international comparisons in the justice area is because they are so difficult. On the face of it, they appear to be considerably more difficult than comparisons of other public policy issues, for instance, health. In the health arena, definitions of illnesses and lists of acceptable treatments are relatively standard throughout the developed world: certainly more so than definitions of crime or of specific punishments and rehabilitative techniques. The concept of 'dosage' is a good case in point. It has come into use increasingly in the criminal justice environment in Britain in recent years, but is still a much more inexact and less measurable idea there than in the medical profession. Put simply, as the European Institute for Crime Prevention and Control wrote in 2010, in the field of criminal justice 'the availability of internationally comparable statistics is very limited'.³

1.8 What impairs comparability? There are multiple factors. These should be borne in mind by readers of this report. They include:

- differences in the ways crimes are counted (for example, whether countries register a crime as soon as it is reported to the police or whether they do so only when it is taken up by prosecutors or associated with a named suspect);
- differences in offence categorisations (e.g. what is classed as a serious violent crime), sentence types (e.g. whether suspended sentences are used or not), and reoffending measures (e.g. whether re-arrests or reconvictions are measured);
- frequent changes in measurement rules and definitions, which evolve as recording practices and laws change and as methodological improvements are made (e.g. in Australia the 2010 iteration of key crime statistics and its successors are not comparable with those from previous years);⁴ and
- wide variation in the timeliness of data, with, we have observed, England and Wales often being the quickest to produce their definitive statistics.

1.9 Comparability issues can often be mitigated, at least partially, by careful cleaning of data or the right choice of analyses. In this report, for instance, we have concentrated on comparing changing trends in crime and punishment internationally, rather than making direct comparisons between rates and volumes for given years. Thus, we have not made much of the fact that New Zealand has, on the face of it, a significantly higher crime rate than France, as we cannot be sure that the two places measure crime in the same way. Instead, we focus on the fact that the trend in both countries has been for crime rates to fall in recent years.

Challenges of interpreting international comparisons

1.10 However, comparability is only part of the problem. Attribution – the question of what is causing a given trend – can also cause difficulties for those wanting to make international comparisons. This is because of the number of systemic factors that tend to be at work.⁵ These include:

- intrinsic differences between legal systems (e.g. some experts believe that Common Law systems, like that in England and Wales, tend to make more use of court for petty crimes than systems based on Roman, or Civil, Law);
- fundamental differences in policy structures (e.g. many experts believe that criminal justice outcomes are affected by whether policy is set in one government department or several, and by whether it is implemented directly, at arm's length or through the private sector);
- differences in the number of laws that countries have on their statute books, and thus in the degree to which specific undesirable activities are criminalised;⁶
- characteristics of independent sentencers and the impact of any training they receive or any controls exerted over them; and
- differences in public confidence in the police and other criminal justice agencies, and thus in the degree to which people cooperate with them and comply with the law.

1.11 Away from narrow criminal justice concerns, it is also generally agreed that wider social issues have an important impact on criminal justice problems and outcomes. Thus, disparities in educational attainment, inequalities in income and in race relations are all now recognised as having a direct, if complex, influence on outcomes.⁷ Even within the selection of advanced nations considered here, the variation in such issues can be surprisingly great.⁸

A worthwhile endeavour

1.12 Listing the difficulties with international criminal justice comparisons can in itself seem to present a challenge to their value. But, for the most part, the analyses we have carried out as part of this research, and the conversations we have had with experts, have rather tended to show us how much can be achieved using existing data.

1.13 Even where current operational statistics do not allow for much comparison, for instance with regard to sentencing policy, a great deal might be achieved by studying practice in other countries and, where it was warranted, piloting similar measures here. Likewise, though sometimes expensive, international surveys can provide valuable insights. Just increasing the prominence of, and coverage given to, key international data about crime and punishment might, on its own, improve the quality of public debate on criminal justice matters, both in this country and elsewhere.

Part Two

International comparisons of key crime and justice data

a) International trends in crime

2.1 Crime levels are a key measure in any analysis of criminal justice systems. In England and Wales there are two main measures of crime - police recorded crime and the British Crime Survey, which measures reports of victimisation from a nationally representative sample of the resident population of England and Wales. Each measure has its own difficulties and benefits. As in other countries, neither can be said to be complete. Despite this, trend data can be used to reach legitimate conclusions and make comparisons about the direction of crime in different countries. This section explores trends across all our case territories.

Measuring crime levels

2.2 Police recorded crime is an incomplete measure because it does not include cases where a victim does not report the crime or where police decide not to record it. Furthermore, in response to local and national priorities, police forces may be required to target specific crimes, such as drug possession or sexual offences. While more of these crimes may consequently be recorded year on year, this does not necessarily mean that more are being committed. This targeted policing may also serve to increase numbers of other crimes, at which resources are not specifically targeted.

2.3 In some countries, as in England and Wales, police recorded crime is supplemented by national⁹ and international¹⁰ victimisation data on crimes experienced by samples of individuals. International victimisation data are collected only infrequently, with the last International Crime Victimisation Survey being run in 2006.

2.4 The Home Office commissioned the first British Crime Survey in 1981. The survey has run continuously on an annual basis since 2001, having previously been conducted roughly every two to four years. The British Crime Survey in England and Wales covers approximately 50,000 individuals over the age of 10¹¹ and collects information about levels of, and public attitudes towards, crime in England and Wales.¹²

2.5 Results are published four times a year and the survey is internationally regarded as one of the most robust and methodologically-sound currently conducted.¹³ It also produces data more regularly than those in many other countries, for instance Canada.¹⁴ It provides more complete coverage of the victimisation and crime levels experienced by the population resident in households than police recorded crime. But, because it is a household victimisation survey, it does not cover crimes against public sector, commercial and other organisations, and so-called 'victimless' crimes such as drug possession offences.

2.6 In a small number of countries, other measures of overall crime are used in addition to police recorded crime and victimisation surveys. Thus, in Canada, police recorded crime is adjusted before being reported according to a seriousness scale: the Crime Severity Index. To calculate the index, each offence on the statute book is assigned a weight, derived from average sentences handed down by criminal courts: the more serious the average sentence, the higher the weight an offence is given, and thus the greater its impact on the overall statistics. The Canadian government is thus able to report on the changing severity of recorded crime as well as the change in the recorded crime rate by population. Between 2009 and 2010, it fell by 5.6 per cent. While we are not recommending that such an approach replace police recorded crime statistics currently in use in England and Wales, we think that there may be some merit in the Home Office and Ministry of Justice considering whether a measure like this might additionally be reported from time to time.¹⁵

Trends in levels of recorded crime internationally

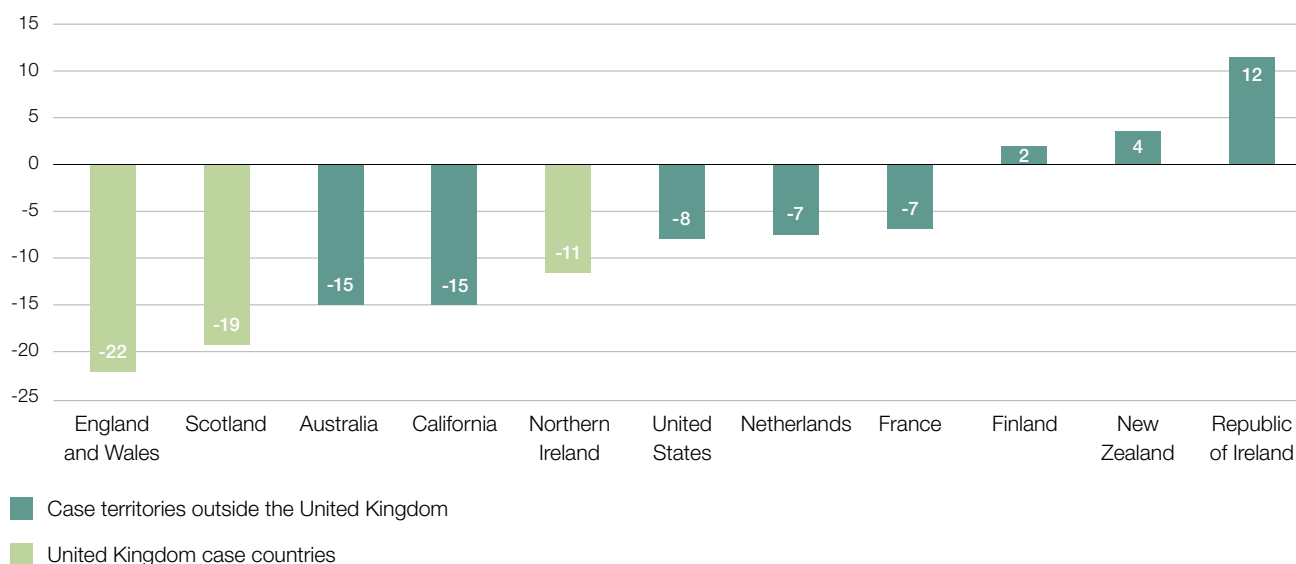
2.7 We looked at the levels of recorded crime that had been reported internationally in recent years. We found that, as is the case in England and Wales, there has been a clear trend downwards since 1995.¹⁶

2.8 In England and Wales, there were 4.2 million crimes recorded by the police in 2010-11, down from 5.6 million in 2005-06.¹⁷ This represents a 25 per cent decrease. As over the longer period since 1995, this overall trend is confirmed by the British Crime Survey, though the size of the reduction reported is different. According to the British Crime Survey measure, 9.6 million crimes were committed against adults in 2010-11, down from 10.7 million in 2005-06, a statistically significant decrease of 10 per cent.¹⁸

2.9 **Figure 2** overleaf presents the percentage change in the numbers of crimes over a comparable time for ten of the countries we explored, as well as California. Owing to varied definitions of crime, and different crime recording standards, we have focused on this percentage change, looking at the period between 2005 and 2009. Canadian data¹⁹ is not included in **Figure 2** because, unlike the other cases countries, it is presented as a rate per 100,000 population. For information, Canadian crime rate data also shows a decrease, of 12 per cent, between 2005 and 2009.

Figure 2
Percentage change in police recorded crime numbers, 2005–2009

Percentage change in crime numbers, 2005–2009



NOTES

- 1 United States and California numbers include only violent and property crimes.
- 2 French data is on 'crime and misdemeanours'. Data available at: http://www.justice.gouv.fr/art_pix/stat_annuaire_p105-115_20111128.ods, accessed 23/2/12.
- 3 Data does not sum due to rounding.

Source: National Audit Office analysis of published crime and population data

2.10 Crime in England and Wales decreased by the largest amount between 2005 and 2009 (22 per cent), followed by Scotland with a decrease of 19 per cent. Three countries' crime levels increased, with the Republic of Ireland having the largest increase (of 12 per cent). Caution should be taken when drawing conclusions from these trends, as described in Part One.

2.11 Further detail can be supplied for each of the constituent parts of the United Kingdom, because definitions of what constitutes a crime there are relatively similar. As shown above, levels of crime have been decreasing in each country at different rates, with Northern Ireland's decreasing most slowly. But, as indicated in **Figure 3**, England and Wales still has the highest crime rate of the three administrations, while Northern Ireland's is currently the lowest.

2.12 Thus, England and Wales remains a jurisdiction with a high crime rate compared to the other parts of the United Kingdom. This analysis appears to be true more widely too, on the basis of evidence contained in a number of standard international studies. These include studies conducted under the auspices of the European Sourcebook project, EUROSTAT and the United Nations Office on Drugs and Crimes, all of which attempt to make it possible to compare a large number of countries even when compatibility issues are substantial.²⁰

2.13 According to the most recent European Sourcebook publication, which presents comparable data on offences per 100,000 population for 2007, England and Wales has a crime rate well above the mean average for 42 Council of Europe countries (**Figure 4**), though it is not the highest of our case countries. In 2007, the Republic of Ireland (11,407), Finland (10,368), Scotland (9,417), England and Wales (9,156), the Netherlands (7,329), Northern Ireland (6,166) and France (5,795) were all well above the mean Council of Europe crime rate of 4,675.

Figure 3

Police recorded crime rates in the United Kingdom, 2010-11

Country	Crime rate in 2010-11 ¹ per 100,000 population	Percentage change in crime rate, 2005-06 – 2010-11
England and Wales	7,513	-28%
Scotland	6,186	-25%
Northern Ireland	5,838	-18%

NOTE

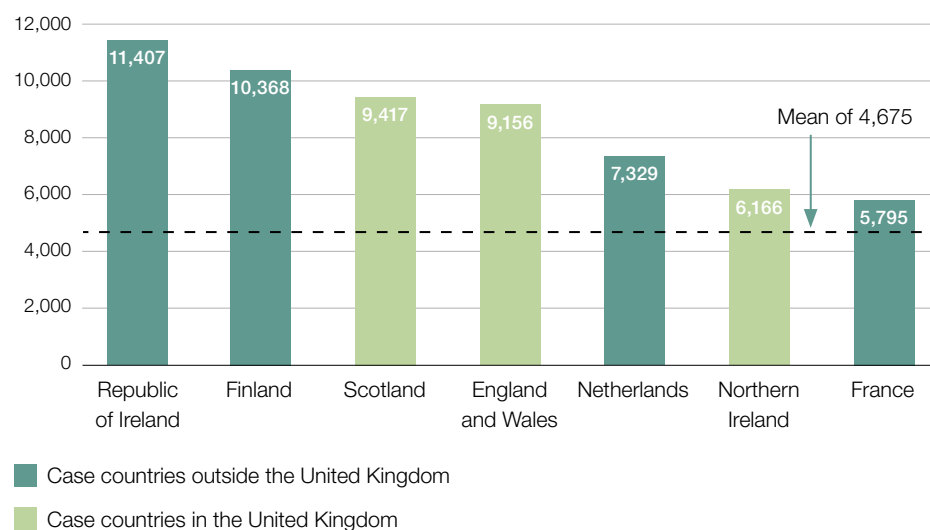
¹ Calculation: (total number of crimes/population) multiplied by 100,000.

Source: National Audit Office analysis of published crime and population data

Figure 4

Offences per 100,000 population (2007)

Offences per 100,000 population (2007)



Source: p. 37. *European Sourcebook, 4th edition*. Available at: http://europeansourcebook.org/ob285_full.pdf

2.14 The reasons why England and Wales should have a high crime rate, but one which is falling at a fast rate, are undoubtedly complex. This complexity itself can be difficult for politicians and experts to communicate to the public at large. Media organisations and politicians often tend to focus on one of the two facts to the exclusion of the other. In reality, the crime rate in England and Wales may be high because the incidence of crime is genuinely greater than elsewhere, or it may be because of some of the measurement and categorisation differences described in Part One, or because the police are recording crime more effectively. Ironically, given the sustained doubts in some quarters about whether crime is genuinely falling, it is this trend that is the more verifiable of the two, as it is backed up by two reputable sources.²¹

Homicide

2.15 Those wanting to understand high-level variations in violent crime internationally often turn to homicide rates as the most accurate guide. This is because the basic definition of homicide is clear (although even here there can be measurement differences to control for between countries), and because it is generally taken that, even in less advanced nations, a great proportion of homicides are likely to come to the attention of the authorities.

2.16 In the UK, homicide is typically the crime of greatest interest to the media, for understandable reasons. Trials of murderers can receive substantial national reporting, as can stories about the impact on victims' families. It is worth noting, therefore, that, even though it may be a high crime country in other respects, England and Wales has a very low homicide rate.

2.17 The United Nations Office on Drugs and Crime²² notes the annual rate of intentional homicide²³ in England and Wales as being 1.1 deaths per 100,000 of population. This is similar to all our case countries, except for Finland (with 2.3 homicides per 100,000) and the United States (with 5 homicides per 100,000). For comparison, the lowest rate of any country globally is 0.4 deaths per 100,000 in Singapore, and the highest is 61.3 per 100,000 in Honduras.

Sexual crime

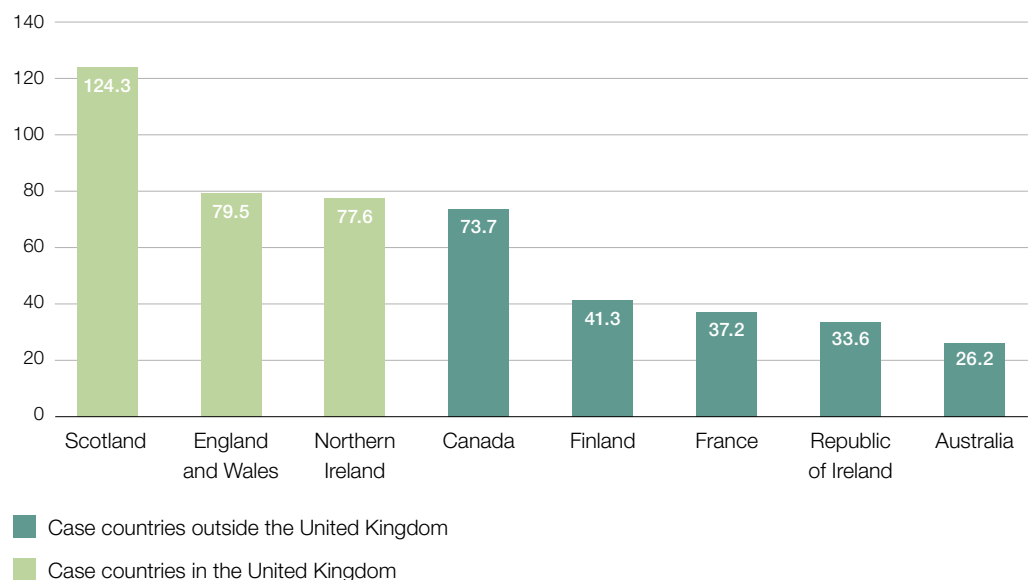
2.18 After homicide, sexual crimes are widely considered to be the most serious of offences. The investigation and prosecution of sexual crimes continue to be an important theme in many developed nations, one that often attracts the interest of the public and the media. Here the relationship between actual incidence and statistical coverage is much less clear than with murder, as it is believed that only a small proportion of sexual abuse ever gets reported to the police, with an even smaller subset making it to the courts. It is estimated that in England and Wales 89 per cent of rapes go unreported, and 38 per cent of serious sexual assault victims tell no one about their experience.²⁴ Reporting of sexual violence can depend on various factors including trust in the justice system and reluctance of the victim to report the incident.²⁵

2.19 In terms of international data, **Figure 5** shows the sexual violence rate per 100,000 population for 2009 in a number of our case countries. The wide variation in rates cannot be taken at face value as evidence of real differences in the incidence of sexual crime. Rather they are reproduced here to show just how unclear the picture is, and how suitable a subject it would be for further research. Higher rates in all the United Kingdom jurisdictions may be an indication of better measurement in recent years, or of a legal system that has defined a greater number of sexual offences. It is currently not possible to say.

Figure 5

Sexual violence rate per 100,000 population, 2009

Sexual violence rate per 100,000 population



Source: *Twelfth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (Twelfth UN-CTS, 2009)*

2.20 Specifically in terms of the reporting of sexual offences against children, United Nations data show that England and Wales had the third highest rate among our case countries in 2008 (at 27.6 per 100,000 population), behind Northern Ireland (with 59.7 per 100,000) and New Zealand (with 33.4 per 100,000). Canada had the lowest rate, at 4.1 per 100,000 population. But, once again, these disparities are so wide as to require further investigation. It is also worth bearing in mind, in particular with regard to sexual offences against children, that there can be a significant lag (often of decades) between such crime being committed and an offence being reported.

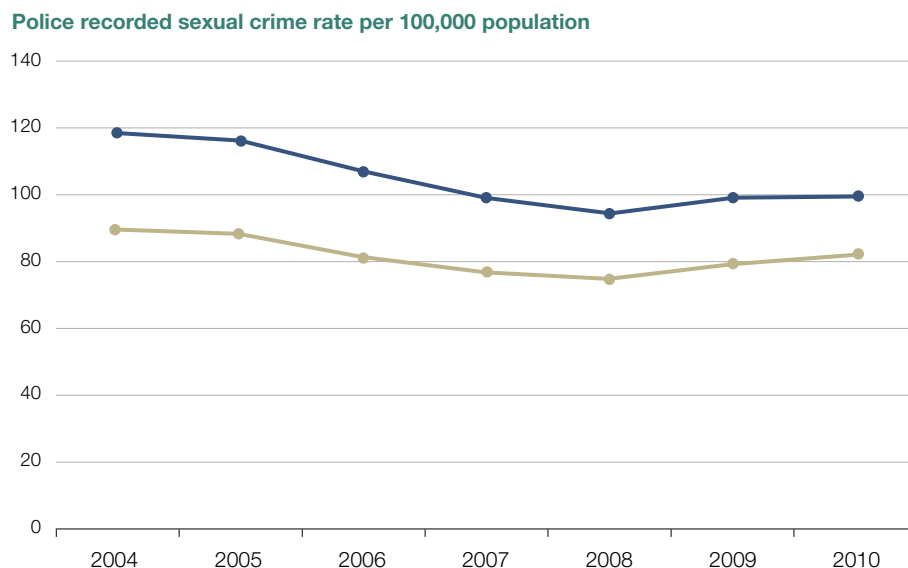
2.21 Figure 6 shows how the key measures of sexual crime in England and Wales have changed in recent years, first falling between 2004 and 2008 and then showing a small increase between 2008 and 2010, according to police recorded crime. At a high level, this trend is corroborated by the British Crime Survey, where reported sexual assaults showed a decline between 2005 and 2009 and a small rise in 2010 (the latter movement may not be statistically significant).²⁶

b) International trends in dealing with crime

Bringing offences to justice

2.22 The criminal justice systems of England and Wales and our other case countries exist primarily not to measure and catalogue crime but to prevent it and, where this proves impossible, to deal with it when it occurs. One measure of how effectively this is done is called the detection rate. It is very difficult to compare detection rates between countries, but a number of tentative steps towards doing so can be made.

Figure 6
Trends in sexual offences, England and Wales



- Rate of total police recorded sexual offences (including attempts) per 100,000 population
- Rate of police recorded most serious sexual offences per 100,000 population

Source: National Audit Office analysis of mid-2010 population data and tables 2.04. Home Office. 'Crime in England and Wales, 2010/11'. Available at: <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/hosb1011/hosb1011-pfatabs?view=Binary>

Measurement challenges

2.23 In England and Wales, for any crime to be counted as ‘detected’, sufficient evidence must be available.²⁷ The police may use one of several methods to count crimes as detected. These can be divided into two categories:²⁸

- Sanction detections, which occur when an offender receives some formal sanction such as being charged or summonsed, or when they have an offence taken into consideration in the courts (TICs).
- Non-sanction detections, which occur when an offence is ‘cleared up’ but no further action is taken against the offender.

2.24 The ratio between the number of crimes where the police succeed in identifying a suspect and the total number of recorded crimes each year is called the detection rate, or sometimes the clearance rate.²⁹

2.25 Offence definitions and detection rates vary widely between police jurisdictions internationally; hence why any comparisons should be interpreted with caution. Apart from changes in police numbers or policing practices, factors that can influence detection rates include:

- police statistics on crime detections sometimes count only crimes resolved in the same calendar or fiscal year that the offence was committed. For example, in New Zealand,³⁰ if an offence is resolved a month after the end of the calendar year, it will not be counted as detected. Hence, the statistics undercount the number of detections, particularly for offences involving lengthy investigation, such as homicides.
- There can be other investigative agencies than the police, such as specialised agencies for fiscal and social security fraud. For example, the Scottish Crime and Drug Enforcement Agency plays a primary role in preventing and detecting serious organised crime in Scotland. Where this is the case it is reasonable to expect higher detection rates than elsewhere.
- Some offences that are counted in the detection rate in one country may be excluded in another. For example, in New Zealand, traffic offences are reported separately from recorded statistics and thus not included in the detection rate,³¹ whereas in the Republic of Ireland traffic offences constitute part of the detection rate.³²

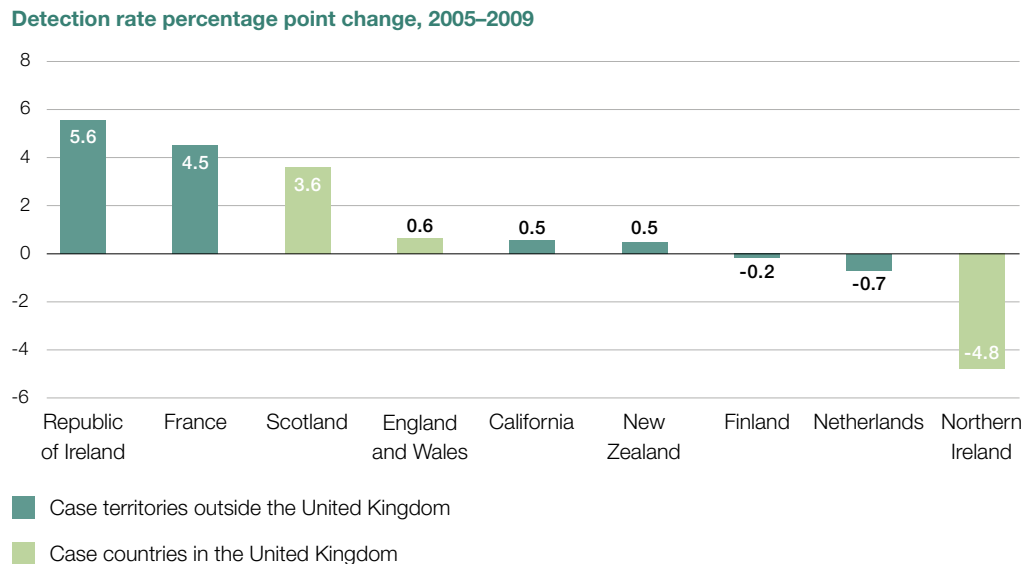
Tentative comparisons

2.26 In England and Wales there were 4.2 million offences recorded in 2010-11, while 1.2 million were detected by means of sanction detection and a further 6,900 were detected by means of non-sanction detection. The number of detections decreased by some 53,000 between; 2009-10; 2010-11 and while the number of crimes recorded fell by some 188,000.³³

2.27 Figure 7 shows the percentage point change in crime and offence detection rates between 2005 and 2009. In eight of our case countries, including England and Wales, the detection rates have changed by less than 5 percentage points. But the range in detection rates across our case jurisdictions is much greater. California has the lowest rate and, of those not including minor traffic offences, Finland the highest. The caveats notwithstanding, further research might fruitfully be done to understand the extent to which these variations relate to real differences in how the police and courts deploy their resources or to other factors, such as changes in the number of police officers.

2.28 Detection rates also vary widely between different crime categories. This is due to the varying level of difficulty law enforcers encounter in identifying offenders and bringing them to justice. So, drugs possession typically has higher detection rates because the identification of the crime and the detection of it usually happen simultaneously. Clearance rates for this offence are almost universally high (e.g. 94 per cent in New Zealand and 99 per cent in the Republic of Ireland in 2009). Homicide detection rates also tend to be high, because of the focus criminal justice systems put on investigating this crime and the fact that most homicides are domestic.³⁴

Figure 7
Change in detection rates, 2005–2009



NOTE

1 Republic of Ireland and New Zealand clearance rates also include minor offences cleared, such as traffic offences.

Source: National Audit Office analysis of published detection rates

2.29 In contrast, detection rates are lower for crimes such as burglary and theft, where the crime generally only becomes known sometime after it has been committed when the offender has left the scene. For burglary: in England and Wales, in 2010/11, only 13 per cent of cases were detected; in Scotland, in 2010, only 25 per cent of 'house breakings' were detected; and in New Zealand, also in 2010, only 15 per cent were cleared. Acquisitive crimes are of great concern to the public and there is sometimes said to be an increasing perception that law enforcers are not interested in investigating them. In spite of the significant challenges, if they are not doing so already, the Home Office and Ministry of Justice may benefit from an examination of how law enforcers in other jurisdictions have attempted to increase their success in detecting acquisitive crimes.

c) Sentencing comparisons, including prisoner numbers

2.30 Different punitive measures are used across the countries we studied, though with some similarities. A common spectrum of sentences in many of the jurisdictions we looked at runs from cautions and conditional discharges (often given different names) through to fines, community and suspended sentences and imprisonment in order of escalating severity. Uniquely in our sample, the United States, including California, has the death penalty.

2.31 Again, due to differences in the sentencing systems in use within countries and in recording practices, it is difficult to compare directly the numbers of offenders being given each sentence in different places. However, some general comments can be made about patterns and trends. In this section, we make some brief observations about fines, which has been a particular issue for the Ministry of Justice in England and Wales, before going on to discuss international prison numbers in detail.

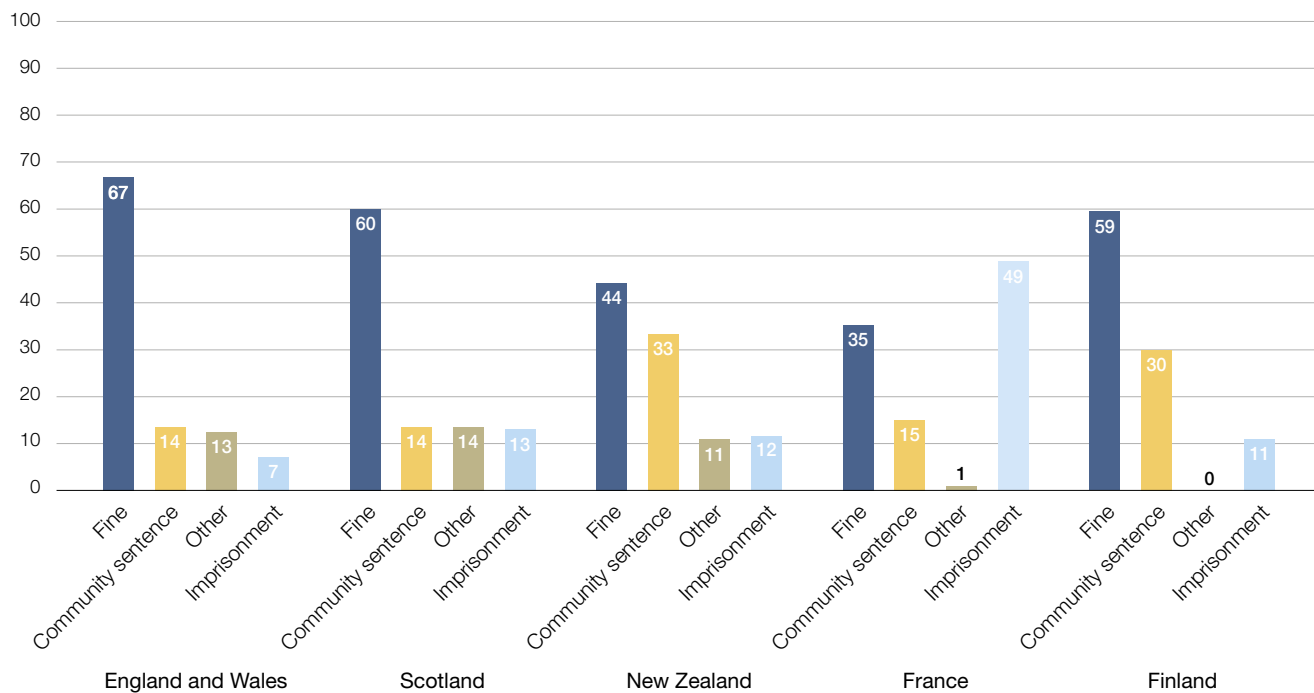
2.32 The commonest type of sentence in England and Wales in 2009-10 was a fine. As shown in **Figure 8** overleaf, this was also true in a number of other countries for which broadly comparable information was available: Scotland, New Zealand and Finland.

2.33 In England and Wales, the use of fines by sentencers is a contentious issue. Some academics and campaigning organisations have indicated that they believe fines to be an ineffective sentence which can sometimes have the effect of pushing already poor people into debt, with the concomitant risk of criminalising them further when a fine is not paid.³⁵

2.34 The NAO has commented on several occasions in recent years about the poor rate of fine collection by the Ministry of Justice its predecessors and other bodies, which is an issue both in terms of value for money and also the deterrent effect of the sentence itself. According to HM Courts and Tribunals Service data, by the end of March 2011, there was £1.9 billion in fines, confiscation orders and penalties outstanding for payment.³⁶

Figure 8
Sentences handed out by courts, 2009-10

Percentage receiving sentence



NOTES

- 1 England and Wales: 'Other' includes suspended sentences, conditional discharges and 'other disposals'.
- 2 Scotland: 'Other' includes cautions and admissions to hospital.
- 3 New Zealand: 'Other' includes cautions and discharges.
- 4 France: Community sentence includes alternative sanctions and educational measures.
- 5 Finland: Community sentence includes conditional imprisonment.

Source: National Audit Office analysis of published imprisonment and population data

2.35 Given that other jurisdictions make substantial use of fines, we believe it could be beneficial for the Ministry of Justice to conduct further work to see how their systems differ to the one in use here. In particular, they could examine whether collection rates are better elsewhere, and, if so, why.

Prisoner numbers

2.36 Imprisonment is typically regarded as the most punitive sentence in most criminal justice systems. It is also usually the most expensive and, where the death penalty is not in use, the most controversial. Academics in Britain and around the world have often questioned its effectiveness, and, like the NAO, aspects of its cost-effectiveness.³⁷

2.37 There are two main measures of prison populations that are used. These are known as the ‘stock’ and the ‘flow’. Here, we explore first the ‘stock’, which is the number of people in prison at any given point in time, say 80,000 in June 2010. Later in this review we will also consider the ‘flow’, which is the number of offenders sent to prison over a given period of time, for instance, 150,000 people through the course of 2010. In countries where short custodial sentences are used frequently, flow will be substantially higher than stock. But in countries where those sent to prison typically receive longer sentences, the gap between the flow and the stock will be smaller.

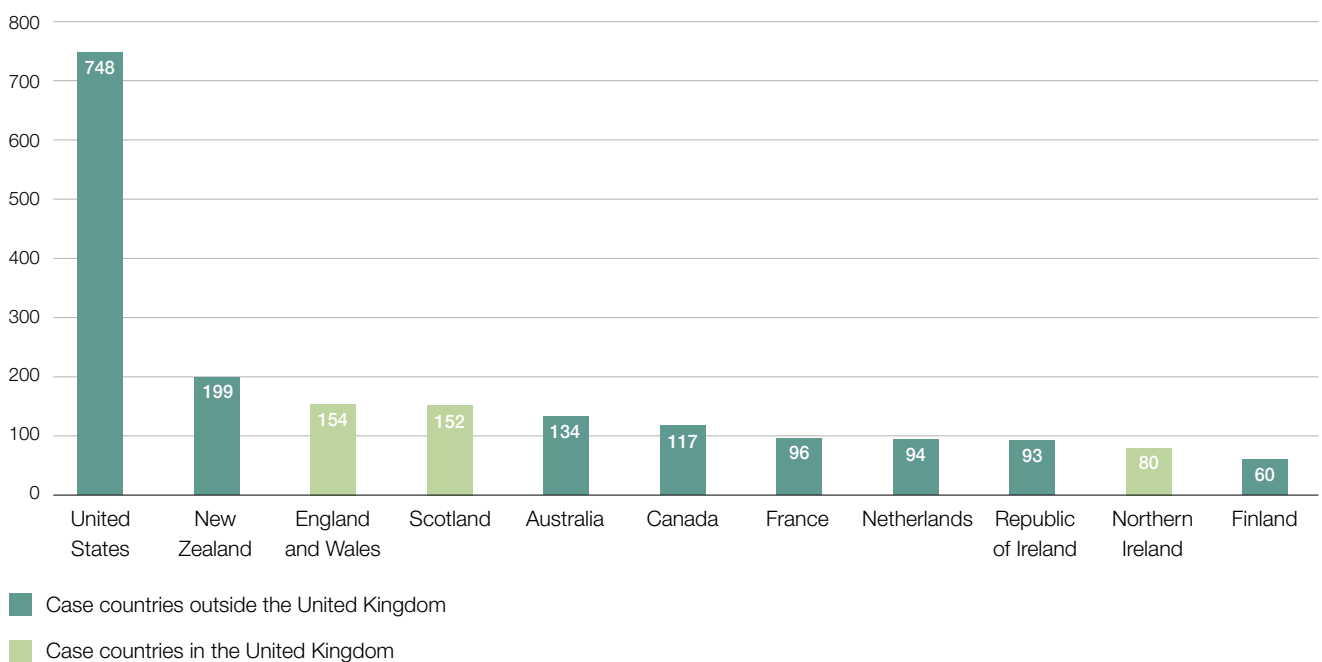
International comparisons of imprisonment (stock)

2.38 As shown in **Figure 9**, England and Wales has the third highest prison population rate of our case countries. It is 88th in the world overall.³⁸ This is despite the fact that, as described in a number of NAO reports, there is no evidence that on average prison is more cost-effective at preventing reoffending than community sentences.³⁹

Figure 9

‘Stock’ prison population per 100,000 of the overall population in 2011

Prison population rate per 100,000 population



Source: World Prison Population List (9th Edition, 2011) <http://www.idcr.org.uk/wp-content/uploads/2010/09/WPPL-9-22.pdf>, accessed 23/2/12

2.39 There are large differences in the prison populations of our case countries. The United States has a much larger prison population than any of the other case countries. In fact, it has the largest prison population in the entire world, both in absolute terms and as a proportion of its national population (**Figure 10**). Of our other case countries, New Zealand (199) and England and Wales (154) had the next highest prison population rates. And in 2011, England and Wales had the 16th largest prison population in the world, and the fourth largest in Europe, after Russia, Turkey and the Ukraine.

Figure 10

Top 20 countries by percentage of world prison population, 2011

Rank	Country	Prison population	Rate per 100,000 of the national population	Percentage of world prison population (%)
1	United States	2,297,400	748	23.1
2	China	1,620,000	120	16.3
3	Russia	847,300	598	8.5
4	Brazil	473,626	243	4.8
5	India	376,396	32	3.8
6	Mexico	224,749	204	2.3
7	Thailand	212,058	313	2.1
8	Iran	166,979	223	1.7
9	South Africa	161,496	324	1.6
10	Ukraine	150,724	330	1.5
11	Indonesia	140,740	61	1.4
12	Turkey	119,542	164	1.2
13	Vietnam	107,668	122	1.1
14	Philippines	102,267	111	1.0
15	Pakistan	95,016	58	1.0
16	England and Wales	85,009	154	0.9
17	Bangladesh	83,000	51	0.8
18	Poland	82,697	217	0.8
19	Japan	80,523	63	0.8
20	Colombia	80,490	176	0.8

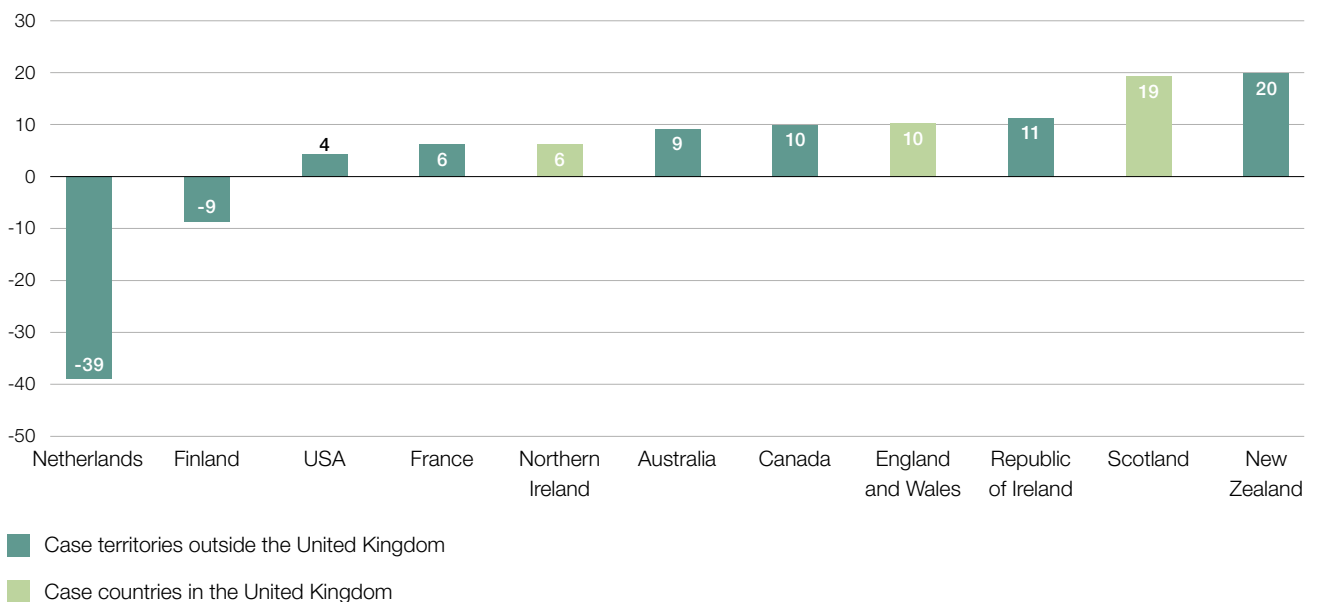
Source: *World Prison Population List* (9th Edition, 2011) <http://www.idcr.org.uk/wp-content/uploads/2010/09/WPPL-9-22.pdf>, accessed 23/2/12

2.40 Overall, there has been a large increase in the world prison population over a number of years: from 9 million in 2005⁴⁰ to 10.1 million in 2011.⁴¹ The prison population in England and Wales has been increasing at varying speeds since 1991. In that year, there were only 36,000 people in prison, just 42 per cent of the prison population in 2011.⁴² In the period between 2005 and 2009 alone, the prison population rate in England and Wales increased by 10 per 100,000. **Figure 11** shows this, alongside the rates for other comparator countries.

Figure 11

Change in prison population rates, 2005–2009

Change in prison population rate



NOTES

1 French data refers to metropolitan France.

Source: Walmsley, R. (unpublished) incarceration data, and national statistical bodies' population data

2.41 Politicians and others are often asked to speculate on the relationship between prison numbers and levels of crime. A simple comparison of data for two recent years indicates no consistent correlations (**Figure 12**). Looking just at 2005 and 2009 statistics, our case countries can be separated into four categories (which might be different even if different years were chosen):

- countries where crime had gone down, as the prison population had increased: namely, England and Wales, Scotland, Northern Ireland, United States, Australia, Canada⁴³ and France;
- countries where crime had increased, as the prison population increased: the Republic of Ireland and New Zealand;
- the Netherlands, where crime had gone down and so had the prison population; and
- Finland, where crime was up but the prison population down.

Figure 12

Changes in crime numbers and prison populations, 2005–2009

Country	Percentage change in crime numbers, 2005–2009	Percentage change in prison population, 2005–2009
England and Wales	-22	10
Scotland	-19	17
Australia	-15	16
Northern Ireland	-11	13
United States	-8	4
Netherlands	-7	-28
France	-7	9
Finland	2	-10
New Zealand	4	17
Republic of Ireland	12	23

NOTES

1 United States crime data only includes violent and property crimes.

2 France prison population data is based on Metropolitan France.

3 Whilst New Zealand's crime levels increased by 4 per cent between 2005 and 2009; they fell by 6 per cent between 2009-10 and 2010-11. The prison population increased by 2 per cent between 2009-10 to 2010-11 according to Statistics New Zealand data.

Source: National Audit Office analysis of justice organisations published crime data, R. Walmsley, (unpublished) incarceration data, and statistical bodies' population data

International comparisons of imprisonment (flow)

2.42 The ranking of our case countries in terms of the flow of people into prison is different than for stock. This is a clear indication of how jurisdictions use incarceration differently. **Figure 13** shows, where available, the rate of offenders sent to prison per 100,000 population in 2009-10, and how this had changed since 2005-06.

2.43 The most marked trends in our comparator countries are the increases in the flow into prison seen in the Republic of Ireland and New Zealand. In the former, the use of prison sentences has almost doubled since 2005-06; this appears to be a short-term trend. In New Zealand, by contrast, the latest increases come at the end of a 20-year period of steady growth in the number of custodial sentences **Box 1** overleaf.⁴⁴

Figure 13
Numbers of imprisonments 2009-10

Country	Imprisonment per 100,000 population in 2009-10	Number of imprisonments 2009-10	Rate change in imprisonments 2005-06 to 2009-10
France	494	309,558	-27
California	461	170,477	-53
Scotland	304	15,788	8
Canada	293	98,848	-5
Australia	276	60,665	unavailable
New Zealand	263	11,339	47
Republic of Ireland	244	10,865	121
England and Wales	182	99,550	-5
Finland	125	6,670	-34

NOTE

1 Australia: data from 2005-06 was unavailable.

Source: National Audit Office analysis of published imprisonment and population data

Box 1

New Zealand: case study on incarceration

The high prison population of New Zealand surprised us, and we decided to look into it in greater detail. New Zealand was ranked first in the world in a Global Peace Index issued by the Institute for Economics and Peace in 2010.¹ The index is based on indicators such as corruption, violence and crime rates. It also frequently features at the top of other league tables for quality of life.

In spite of this, however, only 57 per cent of New Zealanders say that they feel 'safe', a rate comparable with countries such as Bulgaria and Iran. Since at least the mid-1980s, this fact has led New Zealand's political parties to focus on the issue of crime, and has, according to much academic research, led to the growth of 'penal populism'.² This means the use of harsher sentences without reference to their impact on crime trends or generally agreed opinion about their penal effectiveness.

- New Zealand is now routinely compared with other countries with a high prison rate, including England and Wales. The criminologists Pratt and Clark wrote in 2005 that "The two main political parties here, as in Britain and the United States [...] got into a ridiculous bidding war over who was going to be toughest on crime. The consequence in all three societies has been a dramatic rise in imprisonment."³

The overall imprisonment rate is very high by international standards, at 199 per 100,000. The Māori imprisonment rate is higher still, at 700 per 100,000.⁴ The reasons that have been put forward to explain this are:

- that Māori suffer from structural inequality and systematic criminal justice system bias;
- that a higher proportion of Māori experience multiple 'drivers of crime': such as poor health, family breakdown, and low rates of economic and social participation; and
- that the Māori population is also younger than the average for New Zealand, meaning that more Māori fall into the 'typical' offending age range.⁵

NOTES

1 Institute for Economics & Peace. *Global Peace Index (2010)*. <http://www.visionofhumanity.org/wp-content/uploads/PDF/2010/2010%20GPI%20Results%20Report.pdf>, accessed 14/2/2012

2 J. V. Roberts, L. J. Stalans, D. Indermaur, and M. Hough, *Penal Populism and Public Opinion: lessons from five countries*, (2002).

3 J. Pratt and M. Clark, 'Penal Populism in New Zealand', *Punishment & Society*, (2005) 7(3), pp.303-322.

4 New Zealand Department of Corrections, *Over-representation of Māori in the criminal justice system*, p.12, <http://www.corrections.govt.nz/research/over-representation-of-maori-in-the-criminal-justice-system/2.0-criminal-justice-system-bias-and-amplification/2.html>, accessed 23/2/2012.

5 Ibid.

Source: National Audit Office document review of published New Zealand think-tank and academic research, and direct communications with New Zealand academics

2.44 In England and Wales, there has been a slight decrease in the number of people being sent to prison each year. Combining this fact with the continued growth in the stock prison population, we can conclude that magistrates and judges are making less use of short sentences and more use of long sentences. There are many reasons for this, including, but by no means limited to, the introduction of Indeterminate Sentences for Public Protection and Suspended Sentence Orders in 2005. Further information can be found in a number of Ministry of Justice publications.⁴⁵

Issues for further consideration

2.45 Prison is very expensive. The NOMS Annual Report and Accounts 2010-11 reported in 2011 that the average cost per prisoner in England and Wales in 2010-11, was £37,163.⁴⁶ The Ministry of Justice, if it has not already done so, should conduct more work to see how this compares to other countries.

2.46 Learning lessons from other countries may be still more pressing given the Coalition government's expectation, stated in late 2010, that the prison population in England and Wales will reduce by 3,000 by March 2010: that is, from around 85,000 at the time the announcement was made to around 82,000. If all these reductions were to be achieved, and if they were to result in existing prison capacity being decommissioned, the Ministry of Justice might end up saving as much as £120 million a year at current prices.

2.47 Since the 2010 announcement was made, the prison population has continued to grow, reflecting a continuing rising trend outlined in successive publications and the fact that many measures intended to reduce the prison population are still awaiting approval by Parliament. The public disorder of August 2011 has also had a well-publicised impact on prisoner numbers. On 10 February 2012, the prison population, therefore, stood at 87,694.⁴⁷ To achieve the expected reduction by 2015 now, with just over three years to go, the Ministry would have to reduce prison numbers by around 5,700, almost twice the original challenge. The Ministry itself recently published its *Prison Population Projections 2011-2017* report, which provides a medium estimate for the prison population in March 2015 of 87,800, on the basis that all current legislation remains in place.⁴⁸

2.48 The Ministry has always planned to bring forward new legislation in order to help it reduce the prison population as announced. The latest impact assessments for the Legal Aid, Sentencing and Punishment of Offenders Bill and other Green Paper measures (published in November 2011) estimated that the effects of the policies contained within them would lead to a reduction in the prison population, relative to the medium prison projection, of 2,600 places by the end of the current spending review period. This would still result in a higher prison population that was expected at the time of the announcement, reflecting changes to the original package of reforms, as well as trends and events that have impacted on the prison population since then. This provides a challenging situation for the Ministry to manage, to ensure that prison capacity needs are met whilst continuing to meet savings requirements. Insights from overseas, and in particular from the Netherlands and Finland which have seen reductions in recent years, could be very helpful.

d) The use of remand detention

2.49 The use of remand detention is often contested by think tanks, like the Prison Reform Trust, and academics. They note that in England and Wales in 2009, 55,207 people were remanded in custody to await trial, but that an estimated 39 per cent of them did not go on to receive a custodial sentence, while many were actually found not guilty at trial.⁴⁹ Furthermore, remand prisoners account for a disproportionate number of self-inflicted deaths in prisons. In 2010, they made up 15 per cent of the prison population on average, but accounted for 50 per cent of the 58 self-inflicted deaths.⁵⁰

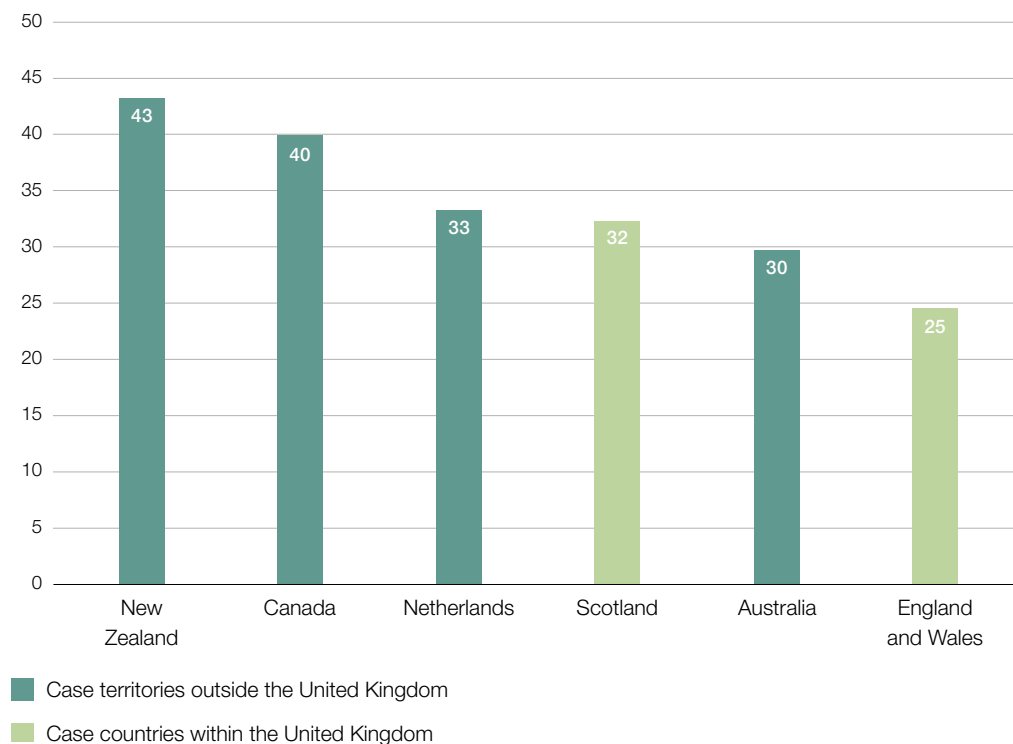
2.50 The International Centre for Prison Studies published a *World Pre-trial/Remand Imprisonment List* in 2008, containing data up to 2007.⁵¹ This showed that, of the 11 countries we focused on, the United States had the highest remand detention rate per 100,000 population (159); New Zealand the second-highest (41); and the Netherlands the third-highest (39). England and Wales was the third-lowest, with 25 remand prisoners per 100,000 population. Only Ireland (15) and Finland (10) had lower rates.

Figure 14 provides more up-to-date information for a subset of these countries, and shows that the rate in England and Wales remains among the lowest.

Figure 14

Remand detention rates per 100,000 population (2009)

2009 remand detention rate per 100,000 population



Source: National Audit Office analysis of published documents

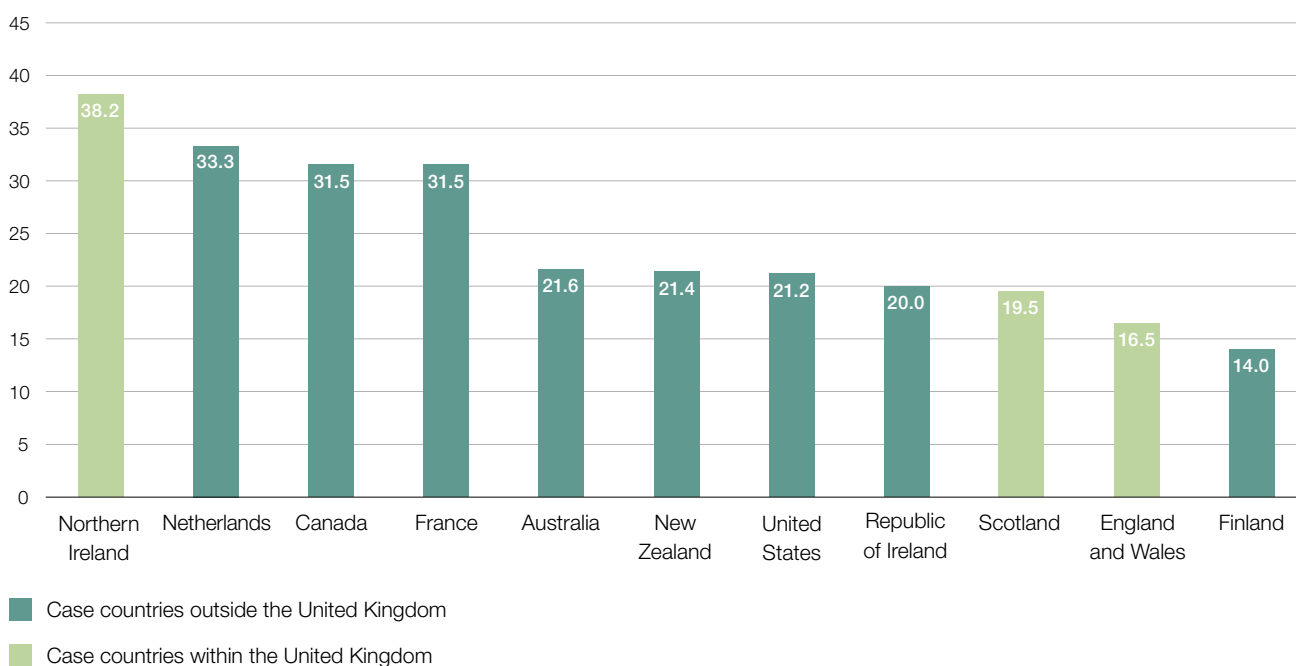
2.51 Looked at in a different way – the proportion of people in prison who are on remand – the use of remand in England and Wales also appears to be low by international standards (**Figure 15**).

2.52 Remand is clearly a vital tool for the criminal justice system in England and Wales, enabling it to ensure the safety of the public and prevent offenders from absconding. But it is also an expensive tool. Therefore, reducing the use of remand can be one way for countries making cuts to their criminal justice budgets to save money, so long as suitable strategies are in place for assessing and monitoring the risks posed by offenders released.

2.53 While keeping the use of remand to an absolute minimum should remain a focus for the Ministry of Justice, our analysis indicates that it may not be a priority in terms of strategies for reducing the prison population in the near future, as rates are already comparatively low by international standards.

Figure 15
Percentage of prison population on remand, 2007

Remand population as a percentage of total prison population (%)



NOTE

¹ The 'World Pre-trial/Remand Imprisonment List' includes data for all countries. We have only presented those included in the scope of our report.

Source: R. Walmsley, International Centre for Prison Studies. 'World Pre-trial/Remand Imprisonment List'. Available at: <http://www.kcl.ac.uk/depsta/law/research/icps/downloads/WPTRIL.pdf>, accessed 2/2/2012

e) Measuring reoffending

2.54 Reoffending is seen as the key measure of the criminal justice system’s success in England and Wales. Reoffending in its broadest sense is, however, just a subset of crime as a whole, and is not, therefore, measurable. Many crimes are committed that are never reported or detected or made the subject of a successful prosecution. Partial proxy measures have to be used as a result. In the case of England and Wales and a number of other jurisdictions these focus on reconviction rates.

Attempts to compare reoffending rates

2.55 Even reconviction rates are too methodologically different to allow international comparisons to be made. As the Ministry of Justice rightly pointed out in a 2010 compendium statistical report, “...reoffending rates between countries should not be directly compared [because of the] range of underlying differences in the justice systems and the methods of calculation”.⁵²

2.56 In England and Wales, reoffending is defined by the Ministry of Justice as “any offence committed in a one year follow-up period and receiving a court conviction, caution, reprimand or warning in the one year follow up or a further six months waiting period”. In Canada, it is a “...new conviction for an offence committed within two years of release from prison”. Further evidence of the differences are shown in **Figure 16**.

Figure 16
Countries’ measures of reoffending

Country	Measure of reoffending	Follow-up period
Australia	Reappearance (in a court), reconviction and reimprisonment	27-39 months
California	Reimprisonment (although figures are also provided for arrests and reconvictions)	3 years
Canada	Reconviction	2 years
England and Wales	Reconviction	1 year
Finland	Reimprisonment	1–8 years
France	Reconviction	1 year
Netherlands	Reconviction	2 years
New Zealand	Reconviction	1 and 2 years
Northern Ireland	Reconviction	2 years
Republic of Ireland	Reimprisonment	1–48 months
Scotland	Reconviction	1 year

Source: National Audit Office analysis of published documents

2.57 Perhaps understandably, attempts to control for differences between re-offending rates have not had great success to date. The Ministry of Justice did carry out an exercise to compare reoffending rates for England and Wales, Scotland and the Netherlands in 2004. Respectively, they were reported as being 54.7 per cent, 44.6 per cent and 29.3 per cent before adjustments. And after realignment and accounting for the principal definitional differences in each country, the gap narrowed and the rates became 45.1 per cent, 44.3 per cent and 38.0 per cent.⁵³ But even then there were a number of variables that could not be controlled for.

2.58 As reoffending is such a key measure, it would be highly desirable if more resources could be put into comparing rates in different countries, or producing a one-off or regular international survey. In England and Wales, the new Payment by Results approach is placing more importance on reoffending rates than ever before.

Improving the accuracy of reoffending rates

2.59 Statisticians in many countries agree that reoffending is difficult to measure. Maintaining and improving the accuracy of rates, and quantifying the scale of particular problems, can be difficult, but it is important if interpretations of change over time are to be meaningful.

2.60 As the Ministry of Justice and others have acknowledged, reoffending data in England and Wales are particularly hard to interpret. This is because these data are produced right at the end of the criminal justice process, and can be affected by many different variables that are not necessarily related to the incidence of crime.

2.61 Since 2007, the Ministry of Justice in England and Wales has measured the level of reoffending in only the first year following an individual's release from prison or their commencement of a community sentence – previously it measured the first two years. The Department conducted analysis to check that a change to a one-year measurement period was justified. This showed that 80 per cent of the reoffending that takes place in two years was committed during the first year. However, only 73 per cent of violent re-offences and 62 per cent of sexual re-offences against children committed over the two years took place in the first.⁵⁴

2.62 A particular risk we have identified for England and Wales in the coming years relates to police numbers. In 2011, Her Majesty's Inspectorate of Constabulary⁵⁵ used police force data to estimate that between March 2010 and March 2015 the police workforce in England and Wales would reduce by 34,100.⁵⁶ Furthermore, the latest Home Office police service strength statistics show a decrease of some 6,000 police officers (4.2 per cent) between September 2010 and September 2011.⁵⁷ It is at least conceivable that these decreases might result in fewer criminals being brought to justice. If this is the case then official reoffending rates are likely to decrease, even though there would not necessarily have been a decrease in the real incidence of crime.

2.63 The Government has said that it will ensure reductions in police numbers are offset by increases in police visibility and productivity. But there are no agreed measures for this, and indeed it may not be measurable in a straightforward sense. Vollard and Hamed found in 2010 that a 1 per cent increase in police resulted in a 0.7 per cent decrease in crime.⁵⁸ But Draca and others state that, after the 2005 terrorist attacks on London, a 1 per cent increase in police numbers resulted in only a 0.3 per cent reduction in crime.⁵⁹ Another academic who carried out research in this area found that it was too early to say that there is a direct causal link between higher numbers of police and lower crime.⁶⁰

2.64 Before committing large amounts of money via Payment by Results contracts, the Ministry of Justice will have to satisfy itself that it has developed a system which sufficiently mitigates the risk of paying for success that would have occurred regardless or that is apparent rather than real. This may well include being able to adjust reoffending rates to take account of variation in police numbers. Secondly, it is important for the Ministry to increase understanding of how Payment by Results itself can drive savings from the wider criminal justice system. Further research, including international comparisons, might be useful in determining both measures for police productivity and ways around issues with reoffending metrics, even though the research itself will be challenging. To date, the Ministry told us that its international work on Payment by Results had included a Ministerial visit to the United States to see similar systems at first hand.

f) Wider public perceptions of justice

Perception of the criminal justice system

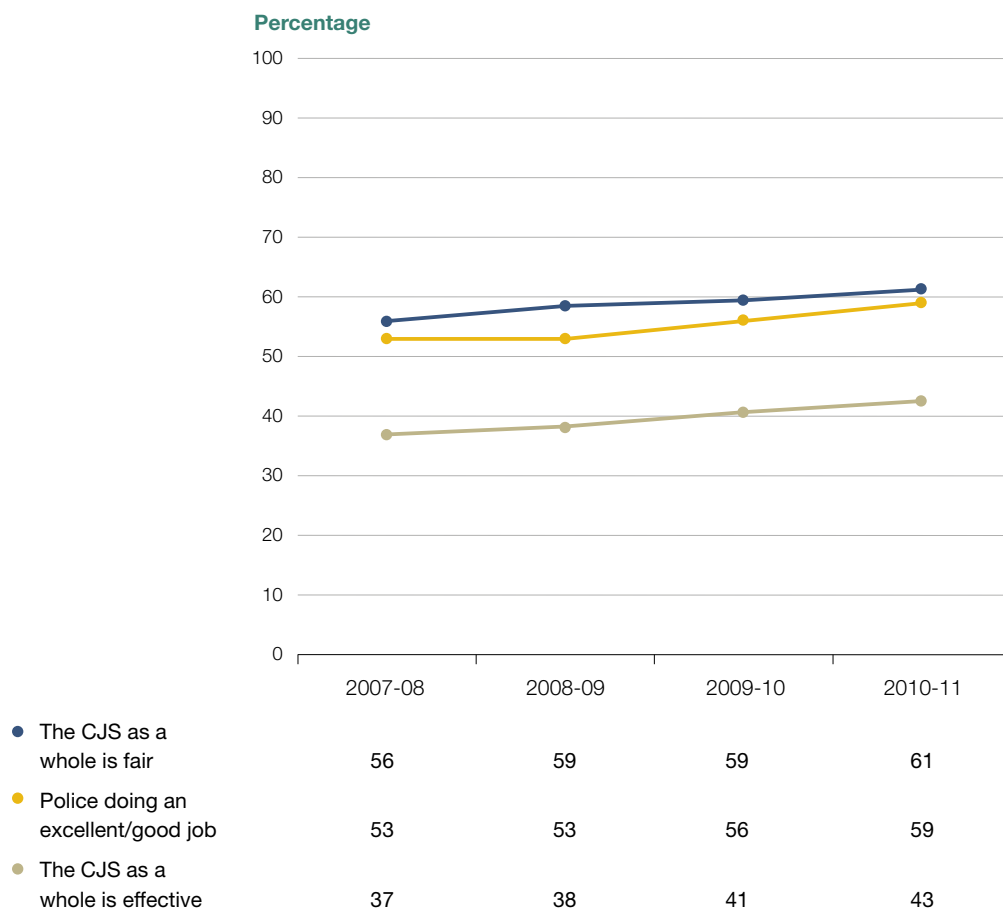
2.65 Our research has shown that crime levels are decreasing in England and Wales, as measured by the two main sources identified in Part Two, Section A. Reported reoffending levels are also decreasing. Between 2000 and 2009, the number of re-offences by adults and juveniles decreased by 11.7 per cent, and the total number of criminals who re-offended within the measurement period each year fell by 1.6 per cent. Media coverage and political discourse do not always reflect these realities. Here, we examine briefly some data from the British Crime Survey to explore perceptions of crime and the effectiveness of the criminal justice system. We also give consideration to some recent research which shows that the degree to which populations believe criminal justice systems are legitimate may itself have an important impact on levels of offending.

Perceptions about crime levels and the criminal justice system

2.66 Confidence in the police and the criminal justice system in England and Wales has been increasing since 2007-08. Again, this conflicts with many messages commonly played out in the media. The trend is the more significant because, in earlier iterations of the British Crime Survey, confidence in the police actually fell.⁶¹ However, it should be noted that while approval of the job the police are doing is high in absolute terms, and while a majority of people believe the criminal justice system overall is fair, less than half (43 per cent) of the sampled population see the system as a whole as effective (**Figure 17**).

Figure 17

Public confidence in the police and criminal justice system in England and Wales



NOTE

1 Estimates for 2007-08 are based on six months of data (between October 2007 and March 2008) as the questions were introduced in the middle of the 2007-08 survey year.

Source: Tables 5.06 and 5b. Home Office, 'Crime in England and Wales 2010-11'. Available at: <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/hosb1011/hosb1011-tabs?view=Binary>, accessed 14/2/2012

2.67 People's opinions on such matters are affected by multiple forces acting upon them. Over time, a trend has been discerned whereby people pay more attention to the national picture of crime than to local intelligence. This may be related to developments such as the demise of local newspapers and the fact that more families are now dispersed throughout the country. Other factors undoubtedly also play a part.

Perceptions of crime increases

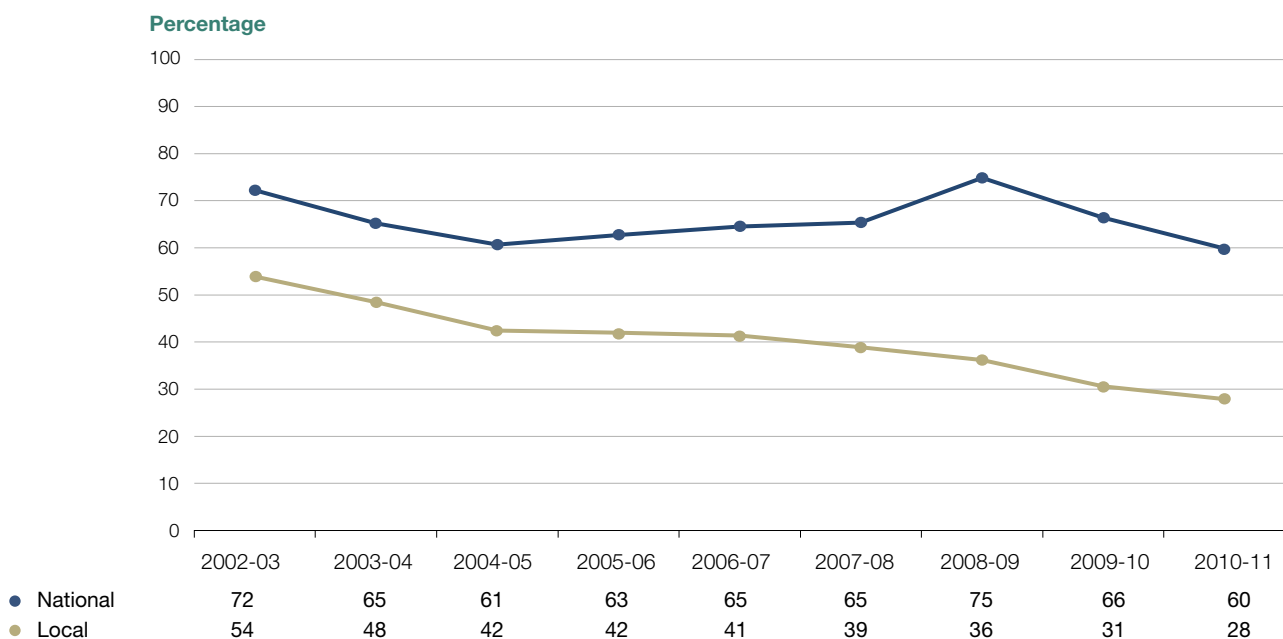
2.68 Despite decreasing crime levels (see Part Two, Section A), in 2010-11, the British Crime Survey showed that 60 per cent of respondents still felt that crime had increased nationally during the last year. Less than 30 per cent believed it had increased locally over the same period (**Figure 18**). This suggests a very large perception gap: the general public apparently tends to believe that levels of crime are increasing significantly more quickly at a national level than locally.⁶²

Perception and legitimacy in criminal justice

2.69 Thanks to Professor Mike Hough at Birkbeck College, we have been able to review early findings from recent research on potentially innovative ways of tackling crime levels. This research is suggesting that the current focus on punishment and reducing re-offending may not be the only way to do so.

Figure 18

Perception of increasing crime levels in England and Wales, 2002-03 to 2010-11



Source: Home Office, *Crime in England and Wales 2010-11*, Table 5.01, <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/hosb1011/hosb1011-tabs?view=Binary>, accessed 14/2/2012

2.70 Hough and others suggest that the present economic situation may have a negative effect on social order, resulting in an increase in crime levels across Europe.⁶³ And this is something that has been remarked upon by others. Existing criminal justice policy focuses on a repressive approach to reducing offending with greater expenditure on policing and punishment to achieve this. Hough's research indicates that such an approach may be less efficient than inclusive strategies for securing what is known as 'normative compliance'. Normative compliance means that people accept the law because they feel it is right to do so, and therefore crime is reduced. Enforcement, and the costs associated with it, becomes less important, and so does punishment.

2.71 This approach focuses on improving trust in criminal justice systems, in order to increase the level of legitimacy that these systems hold. The idea is that the public will then defer to them, by obeying the law, and cooperating with requests to comply. In order to measure and monitor the levels of public trust and organisational legitimacy, effective and robust tools still need to be developed.

2.72 Some international data are available through the European Social Survey, which first took place in 2002 and is currently repeated every two years across some 30 countries. Sample sizes vary per year, depending on the number of countries taking part, but the aim is for a sample of approximately 1,500 individuals from each country.⁶⁴

2.73 The fifth round of the European Social Survey, conducted in 2010-11, included questions on trust in justice. The first data release from this, in November 2011, showed so-called 'topline' results for measures of public trust in courts' procedural fairness and competence. In these results, the United Kingdom sits somewhere in the middle, with roughly average levels of trust. At the top, with the highest levels of trust, are Finland, Denmark, Germany and Norway; whilst at the lower end of the scores are countries like Russia, the Czech Republic, Portugal, Slovenia and Bulgaria.⁶⁵

2.74 Though it is still at an early stage, this research is interesting from a value for money perspective. The NAO has commented favourably on the cost-effectiveness of crime prevention programmes in the past, often on the basis that money spent up front can lead to avoided police, court and probation and prison costs later. Increasing the legitimacy of the criminal justice system in the eyes of key groups, if this could be shown to have an impact on crime levels, would also amount to a form of preventative activity. The Committee and the Ministry of Justice should watch carefully for further publications from the European Social Survey 'Trust in Justice' project, which is being led in the UK by researchers at the London School of Economics, the University of Oxford and Birkbeck College, University of London.

Part Three

Comparing expenditure on criminal justice

3.1 The current global financial crisis means that governments, academics, think tanks, and the public are all concerned about expenditure on justice, and how reducing costs will impact on the quality and value for money of services delivered. Overall, the cost of justice in each country depends on a range of factors. For example a more rehabilitative system could be expensive, equally so could a more punitive system with high levels of incarceration. In addition, different structures of, and approach to policing will have different associated costs. It is not possible to say whether a high-cost system is a good or bad one on principle.

3.2 The Justice Committee was very keen to get insights into the cost of other criminal justice systems, and how England and Wales compares. The availability of data in this area is, if anything, even more limited than operational data. This section describes some of what is available. It also sets out details of how other nations are seeking to reduce costs in their criminal justice systems. It concludes with a consideration of the work undertaken by the Ministry of Justice on international comparisons of legal aid spending, which informed policy reform in this area.

The cost of criminal justice

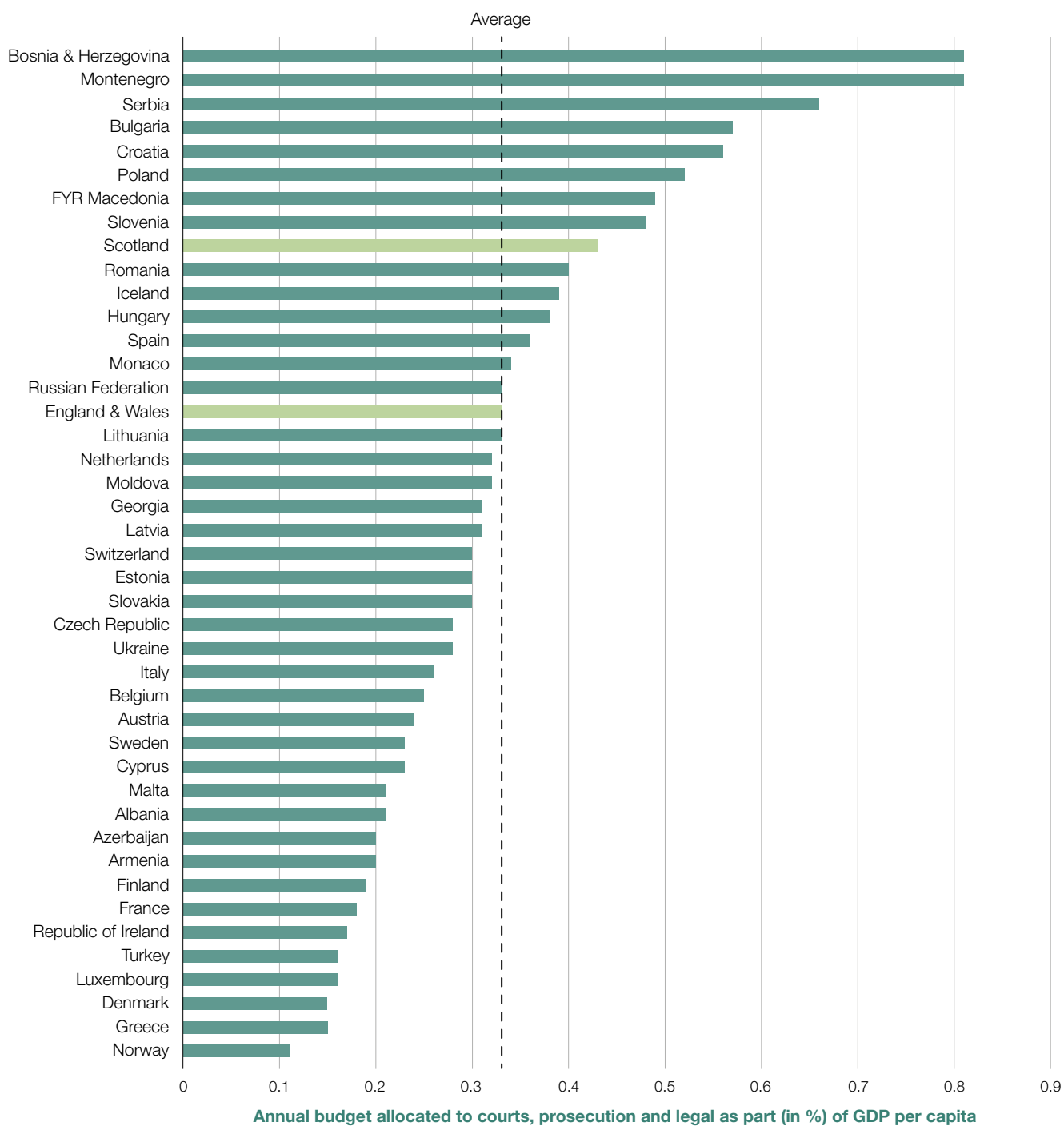
3.3 In 2008, the average total annual public budget allocated to all courts, prosecution and legal aid as a percentage of GDP per capita across Europe was 0.33 per cent. Finland (0.19 per cent), France (0.18 per cent) and Ireland (0.17 per cent) fell significantly below this average, whilst Scotland (0.43 per cent) was above it (**Figure 19**). The expenditure of England and Wales, at 0.33 per cent, was average.

Reducing costs

3.4 Wherever they sit on the below table, most governments throughout Europe, as elsewhere in the world, are trying to drive down cost in their justice departments at present. In the UK, the Ministry of Justice's resource budget is falling from £8.3 billion in 2010-11 to £7.0 billion in 2014-15, a real-terms drop of 23 per cent. Its capital spending is being cut by 50 per cent, in real terms, from £600 million to £300 million over the same period.

Figure 19

Total annual public budget allocated to all courts, prosecution and legal aid as a percentage of GDP per capita



Source: European Commission for the Efficiency of Justice (CEPEJ), *European judicial systems, (2010, showing 2008 data), p.42*

3.5 In a number of other states, similarly ambitious reduction programmes are planned or underway:

- In Scotland, resource spending on justice is set to fall by 5 per cent in total between 2011-12 and 2014-15. Within this, spending on the Scottish Court Service will reduce by 20 per cent and on legal aid by 14 per cent. Capital spending is dropping 73 per cent over the same period.⁶⁴
- In Northern Ireland, current expenditure in the Department of Justice is falling by 13 per cent in real terms between 2010-11 and 2014-15.⁶⁵
- In the Republic of Ireland, payroll expenditure already declined by 9 per cent and non-pay expenditure by 26 per cent over the three years to 2011, with further cuts of 11 per cent overall planned by 2014.⁶⁶
- In Spain, the Justice Department was among those hit with a 16 per cent cut in 2011, and additional reductions of €48 million⁶⁷ have just been announced by a newly-elected government.
- Even in the United States, where a comprehensive deficit reduction strategy is yet to be agreed by politicians, the federal Department of Justice has recently engaged in a cost-cutting drive. According to an announcement in October 2011, this has resulted in the identification of savings worth \$130 million to date.⁶⁸ In total, the Department's net budget for 2012 will be 2.7 per cent less than for 2011 in cash terms – an estimated 6 per cent reduction in real terms.
- Global justice bodies have been affected too, with cuts of 13 per cent contemplated for the International Criminal Court in 2012, on a budget of €120 million.⁶⁹

3.6 Our research shows significant overlap in the measures bodies are adopting in order to make these cuts. Alongside government-wide pay and hiring freezes and other so-called blanket measures, comparable justice-specific initiatives are also underway in many countries. Below are listed a number similar to those being considered or implemented by the Ministry of Justice in England and Wales:

In Scotland:

- the government is seeking to treat more drug users at an earlier stage and to do so more often in non-custodial settings;
- shared services for back-office functions are planned for a number of justice agencies;
- more use of video-conferencing is being planned; and
- the number of court sites is being reduced.

In the Republic of Ireland:

- the terms and conditions of prison staff relating to overtime and grading are to be made less generous;
- long-term sickness absence in the prison service is being targeted; and
- greater use of outsourcing is being contemplated.

In the United States:

- the number of sites used by the Justice Department is being reduced; and
- improvements are planned to improve the success rates for collecting outstanding fines and other court-related debts.

In the state government of New South Wales, Australia:

- all court documents, including defence and prosecution materials, are to be stored and moved around electronically reducing printing, postal and clerical costs; and
- greater use of less costly, non-court forms of alternative dispute resolution is to be mandated.

3.7 The Ministry of Justice might benefit, if it has not done so already, from forging new links or finding other ways to share good practice with countries undergoing fiscal consolidations at present.

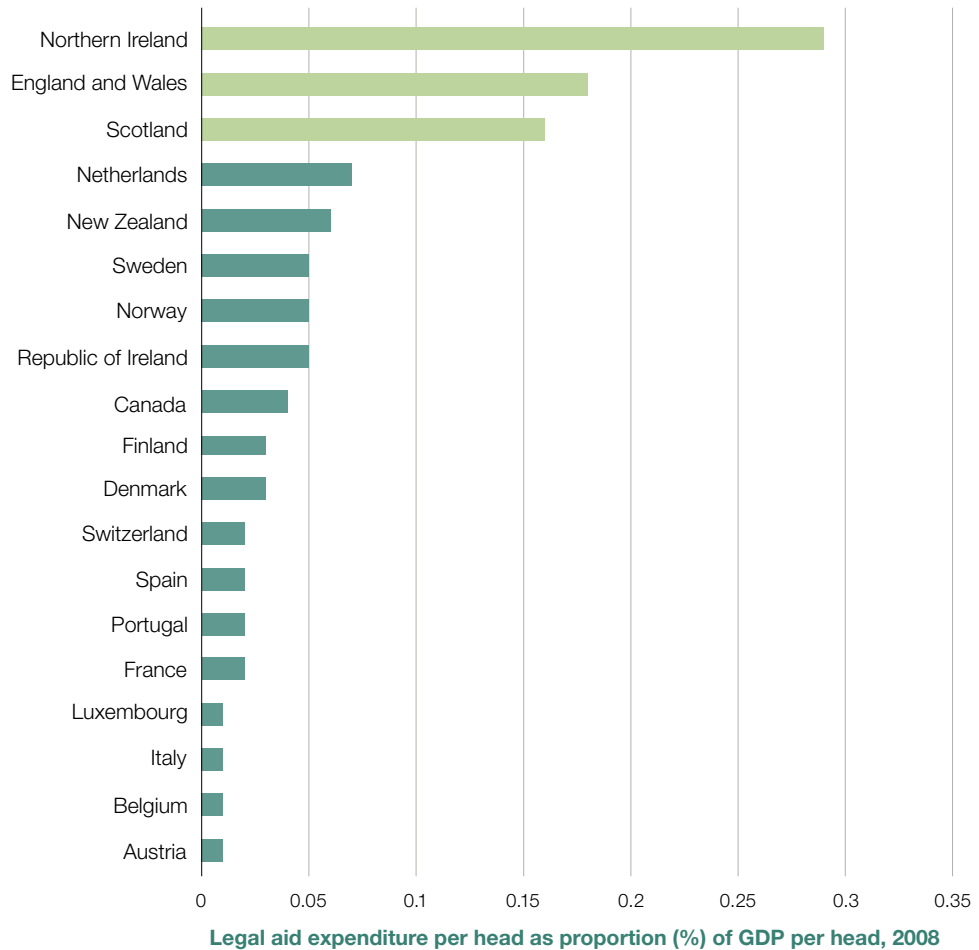
Legal aid

3.8 Legal aid is an essential tool for achieving equality of access for people who cannot afford legal advice and representation. Savings have been sought by the Ministry of Justice across all areas of its portfolio, and this includes legal aid. The proposed legal aid reforms were informed in part by international comparisons.

3.9 In October 2009, the Ministry of Justice published an international comparison of publicly funded legal services and justice systems.⁷⁰ The Ministry updated the report in October 2011. In both cases, the main finding was that the cost of legal aid in England and Wales was high by international standards (**Figure 20** overleaf), amounting to some £39 per head of population annually. Differences in expenditure between countries will reflect differences in their justice systems. Costs are distributed differently in different places, depending on the nature of the justice system and the traditions of each jurisdiction.⁷¹ The Department faced significant challenges in carrying out the research and coming up with comparable results, but in our view this piece of analysis is an example of good practice, and it exemplifies the way in which international comparisons can bring benefits to public debate.

Figure 20

Legal aid expenditure per head as a proportion of GDP per head, 2008



Source: Ministry of Justice, *International Comparisons of Public Expenditure on Legally Aided Services: ad hoc statistics note, 2011, Table 2, p.3*

3.10 The Ministry plans to deliver savings of some £100 million⁷² per annum from the reforms it has made to remuneration charges in criminal legal aid;⁷³ this is part of a wider package of savings across legal aid and is being delivered through secondary legislation which came into effect in October 2012. The focus will be on making sure that as many trials as possible take place in the magistrates' court rather than the more expensive Crown Court. In bringing this change about the Ministry was guided in part by international comparisons, which showed a case for substantial reductions to be made. If it has not already done so, we think that, as it prepares to implement the reductions, the Ministry may want to conduct additional research to assess what the benefits of its previous higher spending were, in value for money terms. This might help it to target savings in a way that preserves the best of the previous system.

Appendix One

Key facts about comparator territories

Country	Population (estimate date)	Legal system	Murder rate	Prison population rate (year)	Death penalty
Australia	22,820,400 (2/2/2012)	Common	1.2	129 (2010)	Abolished
Canada	34,605,300 (3rd quarter 2011)	Common	1.8	117 (2010)	Abolished
England & Wales	55,240,500 (mid-2010)	Common	1.1	154 (2011)	Abolished
Finland	5,375,300 (2010)	Civil	2.3	59 (2011)	Abolished
France	65,350,200 (1/1/2012)	Civil	0.7	111 (2011)	Abolished
Netherlands	16,727,300 (1/1/2011)	Civil	1.0	87 (2011)	Abolished
New Zealand	4,437,100 (3/2/2012)	Common	1.5	199 (2011)	Abolished
Northern Ireland	1,799,400 (mid-2010)	Common	1.5	101 (2011)	Abolished
Republic of Ireland	4,581,300 (2011)	Common	1.3	95 (2011)	Abolished
Scotland	5,222,100 (2010)	Common/civil	1.5	151 (2011)	Abolished
United States	308,745,500 (2010)	Common	5.0	730 (2010)	Retained in some states
California	37,253,400 (2010)	Common	n/a	n/a	Retained

NOTES

- 1 Population data comes from published reports of national statistics organisations and has been rounded to the nearest hundred.
- 2 Murder and prison rates are per 100,000 national population.
- 3 Murder rate data is taken from the Twelfth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (Twelfth UN-CTS, 2009): <http://www.unodc.org/unodc/en/data-and-analysis/crimedata.html> accessed at 14/2/2012.
- 4 Prison population rate data comes from the International Centre for Prison Studies: <http://www.prisonstudies.org/info/worldbrief/index.php?search=F>

Source: National Audit Office analysis of published documents from the justice sector and national statistics organisations

Appendix Two

Methodology

We used a range of methods to collect the data used in this briefing. A short description of our key sources and the people we consulted is below, while specific, detailed references can be found in the endnotes and in the information given alongside specific figures.

Review of key documents

Our document review was limited to published sources, principally those produced by the justice departments of our chosen comparator countries, but also reports from criminal justice think tanks, national statistics bodies, academic institutions and international organisations, like the United Nations and the Council of Europe. We took care to reproduce the key messages from such documents accurately, ensuring that we reflected caveats or limitations where appropriate.

Quantitative analysis

We analysed a wide range of published quantitative data relating to crime, offences brought to justice, sentencing, prisons, reoffending, Legal Aid and criminal justice system costs. Much of this data came from the national statistical bodies of our comparator countries, but some (as referenced) was taken from pre-existing international comparisons, by the European Sourcebook, EUROSTAT and the United Nations Office on Drugs and Crime. In a number of instances, we drew on evidence from our own past value for money reports.

Interviews

At an early stage in our fieldwork, we carried out a number of interviews to help us understand the main data sources that we should be looking at, and also the main trends in criminal justice data internationally in recent years. We also asked all of our interviewees to point us in the direction of interesting research that we could bring to the Justice Committee's attention. In a few cases, where we had specific questions, we contacted experts in other countries. We are very grateful to all who assisted us:

- members of the analytical services teams at the Ministry of Justice and the Home Office;
- staff at the Prison Reform Trust;
- Professor Mike Hough (Birkbeck, University of London);
- Roy Walmsley (Director of the World Prison Brief);
- Gordon Barclay (former Home Office statistician);
- staff at the Government Accountability Office of the United States of America;
- Matthew Bunting;
- staff at Rethinking Crime and Punishment, New Zealand;
- Professor John Pratt (Victoria University of Wellington, New Zealand); and
- Dr Yvette Tinsley (Victoria University of Wellington, New Zealand).

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