

Submission DJE 01212-23: Prison Overcrowding

TO: Minister
STATUS: Completed
PURPOSE: For Decision

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DIVISION: CJ Penal & Policing Policy
DECISION BY: 29/03/2024

Final comment

Highlighted actions in attached table are approved. It is essential that adequate capacity is properly planned to ensure our prisons can manage those people who receive custodial sentences. The future planning group should meet in July. A report with initial options should be provided to the Minister 6 months after the first meeting. Terms of Reference for the group should be approved by Minister by eSub. The delivery of the Curragh should be expedited. Would like a note on what additional capacity could be delivered in the short to medium term with additional capital. Noting the issues regarding e-block, what would the cost be of carrying our fire remediation works on the remainder of their block, and sufficient refurbishment to make it habitable. Electronic monitoring for remand and other prisoners should be expedited/completed.

Action required

The Minister is asked to: note the current level of prison overcrowding; to consider the report of the Prison Overcrowding Response Group; and proposals from the IPS DG to address the immediate pressures on the prison system.

Executive summary

The Irish Prison Service has come under increasing operational stress due to an unprecedented increase in prisoner population numbers. Throughout 2023 and into 2024 the prison service has been operating above 100% capacity, reaching as high as 109% in March 2024, with certain prisons consistently experiencing overcrowding significantly beyond 109%.

Prison overcrowding involves the over-utilisation of physical space per prisoner in cells not intended for multiple occupancy, against the recommendations of the Council of Europe. The increase in population results in large numbers of prisoners sleeping on mattresses on the floor, and in the necessary redeployment of staff into landings, for safety reasons, diverting staff away from facilitating education and rehabilitative services. Prison overcrowding leads to an increased risk of violence for prisoners, threatens the health and safety of prison officers, and undermines the rehabilitation and reintegration of offenders, ultimately resulting in an increased threat to public safety.

To address this, a Prison Overcrowding Response Group was established in July 2023. Following examination of a number of proposals, the Group has identified eleven priority actions.

On 29 February 2024 the Director General of IPS also submitted five further related proposals.

These are now being submitted for consideration by the Minister.

Detailed information

A. Prison Overcrowding - General

Background

The Irish Prison Service has come under increasing operational stress due to an unprecedented increase in prisoner population numbers. Throughout 2023 and into 2024 the prison service has been operating above 100% capacity, reaching as high as 109% in

March 2024, with certain prisons consistently experiencing overcrowding significantly beyond 109%.

Current Situation

The current maximum capacity of the Irish prison estate is 4,514. It should be understood that this maximum capacity relates to the number of available spaces only, and not necessarily a safe upwards operating capacity.

As of 29 February 2024 the prisoner population stood at 4,883. This is a record number of prisoners in the prison estate. 922 of these individuals were being held on remand, which is also a record number. On this same date, a further 486 prisoners were on temporary release, another record number. The Irish prison estate has never before been under such pressure.

On 29 February 2024, with a population of 4,883, the prison estate was operating at 108% of maximum capacity. This 108% should also be considered within the context of the IPS's current Service Level Agreement, which targets 95% capacity as a safe limit, which would be 4,288 prisoners. It should also be considered in the context of the recommendation of the Council of Europe's Committee for the Prevention of Torture (CPT) that prisoner population should not exceed 90% of total capacity, which would be 4,062.

The prisoner population has consistently increased from 2022 to present, and there is no indication that this trend will reverse. Citing the decision to provide almost 600 extra court sittings before the end of July 2024, the Director General of the Irish Prison Service indicates it is highly likely that the number of prisoners will exceed 5,000 before the end of March 2024.

In terms of individual prisons, on 29 February 2024 nine of the twelve places of detention were operating above 100% capacity, including the Dóchas Centre (123%), Limerick Female (111% despite additional capacity), Cloverhill (115%), Limerick Male (113%), Castlerea (113%), Mountjoy (111%) and Midlands (109%). The three remaining places of detention are all operating in excess of the IPS's own Service Level Agreement safe capacity and significantly in excess of the CPT's 90% safe limit - Arbour Hill (98%), Loughan House (99%) and Shelton Abbey (96%),

Operating above capacity has become an unwanted standard in 2023 and into 2024. This has considerable negative impact on safety and the functioning of the prisons, but it should also be noted that the Irish prison estate currently has no space to safely accommodate any sudden surge in its population that may be brought about by large-scale incidents, such as widespread public disorder, or to cope with increased output from the Courts due to the increased number of judges and sittings.

Short Sentences

The Review of Policy Options for Prison and Penal Reform 2022-2024, approved by Government in August 2022, commits as its first priority action to consider the incorporation of prison as a sanction of last resort in statute, in relation to people who do not pose a risk of serious harm, to reduce reoffending and overcrowding in prisons. This commitment was made in light of understanding both the disproportionate impact short sentences of 12 months or less may have on individuals and their path towards desistance, when contrasted against equivalent community-based sanctions, and of the impact short sentences have on prison population numbers.

The number of those serving short sentences remains high. The most recent figures provided by the IPS indicate that on the 31 January 2024 there were 4,777 individuals in custody, of which 426 (Male) and 42 (Female) were serving sentences of less than 12 months. This represented 9.8% of the total prisoner population on that date.

Impact of Overcrowding in Prisons

Prison overcrowding leads to an increase in tension between prisoners, as they are forced to share limited space, and a related decline in mental health. This combination leads to an increased risk of violence amongst prisoners, and as such poses a threat to the health and safety of prison officers. In this regard, there was a 66% increase in 'prisoner on prisoner' assaults in Irish prisons in 2023. This represents an unsafe environment for prisoners, but also an unsafe working environment for prison officers operating in this space.

The increase in prisoner population also stretches limited staffing levels significantly, as it requires the redeployment of staff into landings, and other shared spaces, for safety reasons. This has a direct knock-on effect of decreasing access to education and rehabilitation services, as the staff required to facilitate such services are necessarily diverted to other duties to ensure the safe running of the respective prisons.

The cumulative effect of prison overcrowding is not limited to the prisons then, as the disruption to services intended to address

root causes of offending or provide supports to prepare individuals for release decrease the likelihood of reintegration. This ultimately results in an increased threat to public safety.

Actions to Date

On 28 November 2022, the Irish Prison Service submitted correspondence to the Minister for Justice on the management of prison overcrowding to indicate that, in line with the Delegated Authority agreed with the Department in August 2021, the IPS Director of Operations had been instructed to grant significant additional unstructured temporary release concessions to prisoners serving sentences of 1 year or less who are deemed, by the nature of their offence, to pose a low risk to public safety.

In March 2023, following a formal submission to the Minister for Justice, the Irish Prison Service began widening the eligibility criteria for certain schemes:

- The Community Return Scheme (CRS) - prisoners serving a sentence of between 3-5 years to be considered to be eligible at half-way through their remitted sentence;
- The CRS - prisoners serving sentences from 12 to 18 months to be deemed eligible on committal;
- The Community Support Scheme (CSS) - prisoners serving a sentence up to 18 months to be considered; and
- Temporary Release (TR) - to grant TR for all lower risk prisoners (subject to risk assessment) serving a sentence of less than 12 months, subject to public safety criteria, subject to individual assessment and the offender could be returned to prison in breach of TR conditions.

Building on the c.200 new spaces added over the previous 18 months, the Department has committed to progressing four additional short-term capital projects at Castlerea, Cloverhill, the Midlands and Mountjoy that could provide accommodation for a minimum of 620 additional prisoners over the next 5 years. Engagement is ongoing with the Department of Public Expenditure, NDP Delivery and Reform with a view to progressing an agreed schedule of capital builds. Delivery of these spaces is dependent on successfully steering through the provisions of the Public Spending Code.

Alongside this, the Irish Prison Service continues to look at other opportunities to yield additional prison spaces within the existing prison estate.

B. Prison Overcrowding Response Group

Background

Following discussions of matters relating to prison overcrowding at the Department's MinMac meeting in July 2023, Criminal Justice Policy were charged with establishing a Department-led, cross-sectoral crisis response group to assist driving a resolution to the problem. The Prison Overcrowding Response Group was established in July 2023. Chaired by Assistant Secretary Ben Ryan, the Group had its first meeting on 2 August 2023.

Actions from the Prison Overcrowding Response Group currently being progressed

The group identified and agreed to progress a number of actions which may be pursued within existing structures and commitments and which would not require formal approval. These include:

1. To explore how the use of electronic monitoring could be operationalised for relevant cohorts;
2. To advance discussions with the Department of Housing, Local Government and Heritage regarding extending homelessness services to facilitate greater release of those identified as homeless;
3. To continue to work with the Bail Review Working Group to explore options that may lead to a decrease in numbers being held on remand; and
4. To advance research with the Irish Prison Service on the outcomes of those being held on remand who subsequently receive no conviction or a sentence that does not result in imprisonment.

Agreed Priority Actions

To promptly address the prison overcrowding crisis for the short and medium term, a number of actions have now been identified

for consideration by the Minister. These actions are detailed in [Section D](#), below.

It should be noted that, in line with the nature of this crisis response, most of the options have not been costed or allocated funding in Budget 2024, and some will have cost implications that will require additional funding.

C. Letter from Director General Caron McCaffrey

On 29 February 2024 IPS Director General Caron McCaffrey wrote to Deputy Secretary General John O'Callaghan (attached for reference) outlining the severity of the current situation regarding prisoner population and making a number of proposals for immediate consideration to address overcrowding. This followed a meeting on 19 February (minutes attached) between the Department (John O'Callaghan and Ben Ryan) and IPS (Caron McCaffrey, Don Culliton (Director of Operations), Ray Murtagh (Governor Mountjoy) and Tony Harris (Governor Wheatfield), at which the urgency of the situation was outlined by all concerned.

These proposals are placed alongside the proposals of the Prison Overcrowding Response Group in [Section D](#), below. The letter from the Director General is attached for reference.

D. Actions to Address Prison Overcrowding - For Approval

In light of the report of the Prison Overcrowding Response Group and the 29 February 2024 letter from the IPS Director General, the Minister is now asked to consider the sixteen actions recommended by the Group to address prison overcrowding.

Prison Overcrowding Response Group Proposals:

1. To amend the Criminal Justice (Community Service) Act 1983 and the Criminal Justice (Community Service) (Amendment) Act 2011, as a legislative priority, to provide that the limit of community service hours be increased to up to 480 hours, and the requirement for the judiciary to consider community service be mandatory where considering a custodial sentence of up to 2 years or less.
2. To reduce existing sentences of imprisonment by way of order by the Minister for Justice.
3. To approve in principle the development of a process through which those convicted of sexual offences may be released on conditional supervised Temporary Release in conjunction with electronic monitoring, subject to the outcome of the work of the subgroup on electronic monitoring.
4. To develop new structured temporary release scheme for women serving sentences of 12 months or less.
5. To repeal enactments providing for the ineligibility of those serving presumptive minimum sentences for Temporary Release, and parole.
6. To prioritise progressing the Criminal Justice (Community Sanctions) Bill 2014, retaining the emphasis placed on prison as a sanction of last resort.
7. To amend legislation that governs post-release supervision so that Court-ordered post-release supervision by the Probation Service can commence from the first date of Reviewable Temporary Release rather than the remission date.
8. Review the processes and eligibility for the Drugs Treatment Court to increase catchment of individuals sentenced to low-level drugs-related crimes.
9. Recognising their constitutional independence, to engage with the Judiciary and encourage the use of the community service orders rather than the imposition of sentences of 12 months or less.
10. Establish a specialised Probation Service Supervised Temporary Release response which can be expanded and scaled in response to the growing pressures on the Irish Prison Service resulting from increasing prisoner numbers.
11. Purchase Rapid Deployment Cells

Details of these actions, including rationale and impact where appropriate, are contained in the full report, attached.

Proposals from Director General of the Irish Prison Service (29 February 2024):

12. To consider all possible options for Temporary Release for medium to high-risk sentenced prisoners to alleviate the risk of harm within prisons due to overcrowding, having regard to the requirements of the Criminal Justice (Temporary Release of Prisoners) Act

2003 and other risk and protective factors on a case-by-case basis. This will include active consideration of:

- prisoners convicted of assault on Garda / Peace Officer, prolific burglary and other serious offences;
- prisoners who have previous but not current protection and/or safety orders where no evidence of breach of such orders is known; and
- prisoners who have future court dates for a District Court where there is no direction to detain until the court date.

13. To take steps to review the potential to grant Temporary Release to people convicted of a sex offence. The IPS propose to categorise people convicted of sexual offences to consider for early release, in order:

- Those for whom the sexual offence is historic, and not related to their current sentence;
- Older, medically dependent people with a sexual offence with active engagement with the SORAM process; and
- Those convicted of lesser grade sexual offences.

14. To review and amend the current delegated authority to the Irish Prison Service for the granting of temporary release and transfer to an open centre to include prisoners serving sentences of 8 years plus. This will facilitate better utilisation of open centre spaces and provide for the judicious granting of temporary release to those serving longer sentences but who have stabilised within custody, thus presenting a lower risk in terms of reoffending.

15. To reduce the number of prisoners remanded to custody instead of remanded on bail. This includes:

- to accelerate a plan for a bail supervision scheme for female offenders; and
- to also reduce the number of prisoners having to be committed to prison prior to taking up bail by requiring the Courts Service to make provision to discharge bail at the Court, negating the need to process a prisoner through the committal process in a prison only to be released hours/days later when the cash bail is presented.

16. That the Department of Justice commence engagements with the Department of Defence to discuss whether it is possible to secure access to the Curragh Military Prison for the Irish Prison Service which could provide up to 100 additional prison spaces.

E. Immigration Policy - Temporary Release

In the 29 February 2024 letter, the Director General of the Irish Prison Service also makes reference to the impact of the recent decision of the Garda National Immigration Bureau (GNIB) to charge those entering the jurisdiction without valid documents.

The IPS indicates it does not currently have capacity to detain low risk offenders sentenced to short sentences, a category which those convicted of immigration related offences would fall under.

In November 2022 the IPS notified the Department of Justice that they had begun to grant full temporary release to all short sentenced low risk offenders. At that time, the Department decided this policy would not apply to those convicted of immigration offences.

The IPS is seeking a reversal of this policy decision, or some form of intervention, as overcrowding necessitates the early release of more serious high risk offenders to make space for offenders deemed to be low risk from a reoffending and community safety perspective.

However, any decision to change the policy position on this issue must be balanced against the overriding policy imperative of effective border controls. It is understood that GNIB are testing the impact of stricter enforcement of the requirement to have a valid travel document to enter the State and the early release of those convicted of related offences could serve to undermine this particular initiative.

F. Prison Capacity - Medium and Long Term Needs

The Department has committed to progressing four additional short-term capital projects at Castlerea, Cloverhill, the Midlands and Mountjoy that could provide accommodation for a minimum of 620 additional prisoners over the next 5 years. Engagement is ongoing with the Department of Public Expenditure, NDP Delivery and Reform with a view to progressing an agreed schedule of capital builds. Delivery of these spaces is dependent on successfully steering through the provisions of the Public Spending Code.

Should this work be successfully completed, the anticipated capacity of the Irish Prison Service estate c.2030 would be

approximately 5,134.

Beyond that, there is the question as to the longer term requirements in terms of prison capacity. Assuming no policy change, current projections suggest a requirement for over 6,000 spaces by the early 2030's and that planning for the delivery of additional spaces at that scale would need to commence immediately, if it were decided to provide capacity at that level within 10 years.

It is recommended that further analysis is undertaken before a decision on such a programme is made, and that such analysis have regard to all the factors giving rise to an increasing demand on prison places with a view to developing proposals that would aim to deliver in the long-term a prison estate that is modern and fit-for-purpose, operating within capacity and that supports the rehabilitation of offenders.

G. Next Steps

The recommendations of the Prison Overcrowding Response Group and the DG's proposals in her letter to DSG O'Callaghan have been combined into the Table attached. The timeline to implement each of the recommendations/proposals and whether legislation is required is set out.

The Minister is requested to consider the contents of this submission; the report of the Response Group; and the DG letter; with a view to further discussions and decisions as to which actions to take to address the immediate pressures on the prisons.

Beyond that, it is recommended that further analysis is done in relation to prisons capacity in the medium/longer term with a view to bringing forward proposals for consideration later this year.

Related submissions

There are no related submissions.

Comments

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An Roinn Dlí agus Cirt
Department of Justice

Prison Overcrowding Response Group Report

Version 4

6 March 2024

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Executive Summary

The Irish Prison Service has come under increasing operational stress due to an unprecedented increase in prisoner population numbers. Throughout 2023 the prison service has been operating above 100% capacity, reaching as high as 107%, with certain prisons consistently experiencing overcrowding significantly beyond 107%.

Prison overcrowding involves the over-utilisation of physical space per prisoner in cells not intended for multiple occupancy, against the recommendations of the Council of Europe. This may involve the use of bunk beds where not intended, or the well-publicised practice of individual prisoners sleeping on mattresses on cell floors. The increase in population also results in the necessary redeployment of staff into landings, for safety reasons, diverting staff away from facilitating education and rehabilitative services. Prison overcrowding leads to an increased risk of violence for prisoners, threatens the health and safety of prison officers, and undermines the rehabilitation and reintegration of offenders, ultimately resulting in an increased threat to public safety.

To address this, a High Level Prison Overcrowding Response Group was established in July 2023. Following examination of a number of proposals, the Group has identified a number of priority actions, detailed in this report.

The Group now seeks the approval of the Minister for Justice to advance as a priority the following actions to address prisoner overcrowding:

- a. To amend the Criminal Justice (Community Service) Act 1983 and the Criminal Justice (Community Service) (Amendment) Act 2011, as a legislative priority, to provide that the limit of community service hours be increased to up to 480 hours, and the requirement for the judiciary to consider community service be mandatory where considering a custodial sentence of up to 2 years or less.
- b. To reduce existing sentences of imprisonment by way of order by the Minister for Justice.
- c. To approve in principle the development of a process through which those convicted of sexual offences may be released on conditional supervised Temporary Release in conjunction with electronic monitoring, subject to the outcome of the work of the subgroup on electronic monitoring.
- d. To develop new structured temporary release scheme for women serving sentences of 12 months or less.
- e. To repeal enactments providing for the ineligibility of those serving presumptive minimum sentences for Temporary Release, and parole.
- f. To prioritise progressing the Criminal Justice (Community Sanctions) Bill 2014, retaining the emphasis placed on prison as a sanction of last resort.

- g. To amend legislation that governs post-release supervision so that Court-ordered post-release supervision by the Probation Service can commence from the first date of Reviewable Temporary Release rather than the remission date.
- h. Review the processes and eligibility for the Drugs Treatment Court to increase catchment of individuals sentenced to low-level drugs-related crimes.
- i. Recognising their constitutional independence, to engage with the Judiciary and encourage the use of the community service orders rather than the imposition of sentences of 12 months or less.
- j. Establish a specialised Probation Service Supervised Temporary Release response which can be expanded and scaled in response to the growing pressures on the Irish Prison Service resulting from increasing prisoner numbers.
- k. Purchase Rapid Deployment Cells

1. Background

The Irish Prison Service has come under increasing operational stress due to an unprecedented increase in prisoner population numbers. Throughout 2023 the prison service has been operating above 100% capacity, reaching as high as 107%, with certain prisons consistently experiencing overcrowding significantly beyond 107%.

Following discussions of this matter at the Department's MinMac meeting in July 2023, Criminal Justice Policy were charged with establishing a Department-led, cross-sectoral crisis response group to assist driving a resolution to the problem. The Prison Overcrowding Response Group was established in July 2023. Chaired by Assistant Secretary Ben Ryan, the Group had its first meeting on 2 August 2023.

2. Membership

Ben Ryan, Assistant Secretary, Department of Justice (Chair)
Caron McCaffrey, Irish Prison Service
Don Culliton, Irish Prison Service
Fiona Ní Chinnéide, Probation Service
Gail Malone, Department of Justice
Gurchand Singh, Department of Justice
Ken Keating, Department of Justice
Mark Wilson, Probation Service
Mary O'Regan, Department of Justice
Melanie Rhatigan, Irish Prison Service
Padraic Jones, An Garda Síochána
Paul Mannering, Irish Prison Service
Shay Keary, Courts Service
Siobhan Barron, Department of Justice
Steven Doyle, Department of Justice
Stjohn O'Connor, Department of Justice

Aidan Ryan, Department of Justice (Secretary)

3. Current Situation and Projections

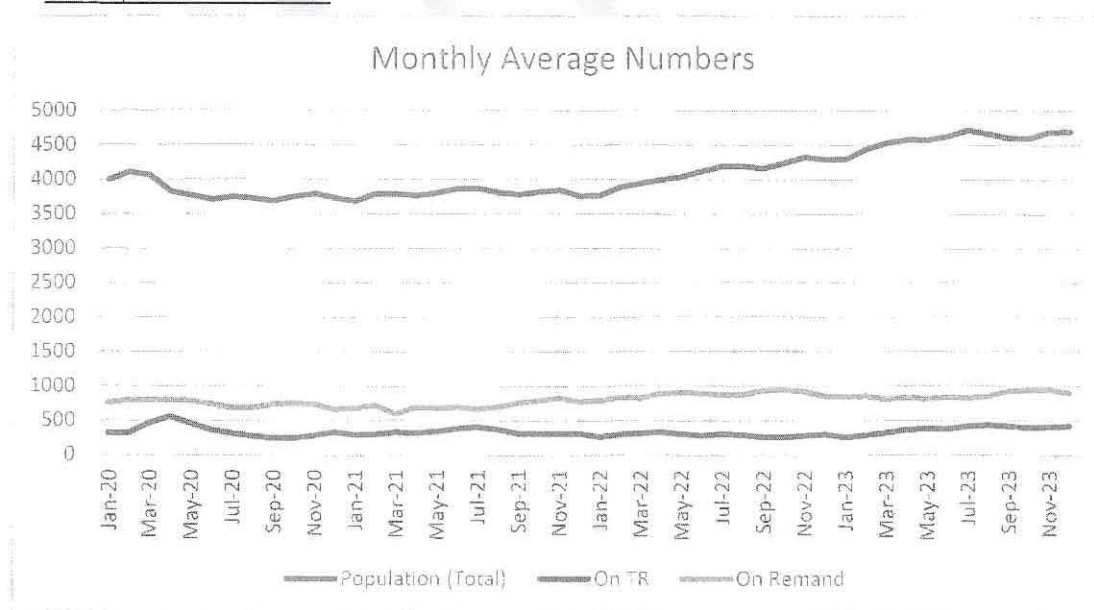
3.1 Irish Prisoner Population – February 2024

As of 14 February 2024 the prisoner population stood at 4,825. In light of the current maximum capacity of the system standing at 4,514, this represents operating at 107% of maximum capacity. It should be understood that this maximum capacity relates to the number of spaces only, and not necessarily a safe upwards operating capacity.

On this same date, the newly opened Limerick female prison was operating at 127%, the Dóchas Centre was operating at 118% capacity, Cloverhill remand prison was operating at 114% capacity, Limerick male prison stood at 111%, Castlerea stood at 111%, Cork stood at 114%, the Midlands stood at 108%, Portlaoise at 100%, and Mountjoy at 108% capacity.

Operating above capacity has become an unwanted standard in 2023 and into 2024. This has considerable negative impact on safety and the functioning of the prisons, as detailed in this report (*see 5.2 below*), but it should also be noted that the Irish prison estate currently has no space to safely accommodate any sudden surge in its population that may be brought about by large-scale incidents, such as widespread public disorder.

3.2 Impact of COVID-19



On 29 February 2020, before any COVID-19 public health measures were introduced in the State, the prisoner population was 4,204. 316 offenders were on Temporary Release (6.8%), and 822 were being held on remand.

By 31 March 2020, the number of those in prison was reduced to 3,881. 585 offenders were on Temporary Release (12.7%), with 814 being held on remand.

This drop in prisoner population is directly attributable to the increased use of Temporary Release for appropriate prisoners to enable them to return to their communities. No evidence has been provided of any commensurate increase in the risk to public safety, indicating the use of Temporary Release where appropriate had a positive impact on prisoner population numbers, and health measures in prisons, but no negative impact on offending rates.

By January 2021, prisoner population numbers dropped to 3,681, and between March 2020 and January 2022, when the majority of public health measures were in place, the prisoner population remained steady between 3,650-3,900.

Following the lifting of the majority of public health measures in January 2022, and a general reopening of society, the numbers in prison have steadily increased. To date, the peak of this was reached in February 2024 at 4,825. It is expected that this figure will continue to increase.

Further to the resumption of the Courts, the Courts Service, when assessing the impact of COVID-19 on the criminal justice system also identified a backlog of cases to be processed. While these cases continue to be worked through, any potential reduction in crime rates in the short term would not have a positive impact on the prisoner population numbers at present, as there remains a large volume of cases still to be dealt with.

3.3 Criticism of Overcrowding in Irish Prisons

The Inspector of Prisons wrote to the Minister for Justice in December 2022 highlighting concerns regarding overcrowding. This matter arose in relation to the 2022 inspection of Mountjoy Prison. Writing in the 2022 Annual Report, published in October 2023, the Inspector of Prisons commented:

During the visit to Mountjoy Prison, our team was shocked to find that a significant number of people were being obliged to sleep on mattresses on the floors of cells designed for single occupancy. The size and design of many of these cells meant that mattresses had to be wedged at an angle next to the in-cell lavatories. At the time of the inspection, an average of some 38 men per day were being kept in these conditions, often with minimal out-of-cell time. These conditions of detention could be considered degrading.

The Irish Penal Reform Trust has repeatedly made public its concern regarding prison overcrowding. Most recently, it made a substantive submission to the development of Budget 2024, utilising its platform across a number of media outlets to call for an urgent response to prison overcrowding and the funding it perceives as required to address this matter. In its accompanying press release, the IPRT stated:

While we understand the need to provide capital infrastructure investment to update and improve the prison estate, Budget 2024 provides a timely opportunity to invest in practical measures that will help to alleviate the current situation of chronic prison overcrowding.

The Prison Officers Association has also publicly highlighted the impact of overcrowding on the working conditions of its members and the threat it poses to their safety.

Overcrowding in Irish prisons has also been raised in national media throughout 2023, with articles from the Irish Times, the Irish Independent, the Irish Examiner, RTÉ News, Newstalk, and a number of other regional media outlets.

3.4 Projections

As the population of Ireland increases it can be expected that the prison population will increase at a similar rate.

The CSO publish a report looking at the estimated population in April each year¹. The most recent population estimate for April 2023 does not give an age breakdown for adults only. However, using the figures that are included, it can be estimated that the current number of adults in Ireland is approximately 4,060,300 (1,982,380 males and 2,077,880 females).

The CSO also publish reports looking at population estimates for the next 35 years². They use six different methods for estimating the population based on different rates of migration and fertility. Using these estimates, we can get a range of forecasts for the number of males and females aged over 18 in Ireland each year up to 2033. However the most recent report was published in 2018, so the estimates are out of date.

As can be seen in the table, by 2033 the total population of adults in Ireland is estimated to be between 4,250,000 and 4,560,000. The estimated population in 2023, using the first CSO report, is already approaching the highest estimate for the population in 2025. However when looking at the gender breakdown, it can be seen that it is the female population which has increased at a higher rate than expected. As males make up the majority of people in prison, it is these estimates which are more relevant here.

¹ [Population and Migration Estimates, April 2023 - CSO - Central Statistics Office](#)

² [Population and Labour Force Projections 2017 - 2051 - CSO - Central Statistics Office](#)

Predicted Population aged over 18 (10,000s)			
Year	Male	Female	Both Genders
2024	197 - 204	190 - 197	387 - 401
2025	199 - 207	192 - 200	391 - 407
2026	202 - 210	194 - 203	396 - 413
2027	204 - 214	196 - 206	400 - 420
2028	207 - 217	198 - 209	405 - 426
2029	209 - 220	201 - 213	410 - 433
2030	211 - 223	203 - 216	414 - 439
2031	213 - 226	205 - 219	418 - 445
2032	215 - 229	207 - 222	422 - 451
2033	217 - 232	208 - 224	425 - 456

Based on recent Irish Prison Service daily figures – 17 November 2023³, there are 4,715 people in custody. Approximately 95% of people in prison on 17 November 2023 were male and 5% were female. As a proportion of the current population this equates to:

- 0.23% of the adult male population or 22.6 males in prison per 10,000 of adult males
- 0.01% of the adult female population or 1.1 females in prison per 10,000 of adult females.

Assuming that these rates stay the same over the next ten years, the proportion of people forecast to be in prison broken down by gender can be seen in the table below.

³ [17-November-2023.pdf \(irishprisons.ie\)](#)

Predicted Number of People in Prison			
	Males	Females	Total
2024	4,460 – 4,613	209 - 216	4,668 – 4,830
2025	4,508 – 4,681	211 - 220	4,718 – 4,901
2026	4,561 – 4,754	213 - 223	4,774 – 4,977
2027	4,614 – 4,827	216 - 227	4,830 – 5,054
2028	4,667 – 4,900	218 - 230	4,886 – 5,131
2029	4,720 – 4,973	221 - 234	4,941 – 5,207
2030	4,771 – 5,044	223 - 237	4,994 – 5,282
2031	4,817 – 5,111	225 - 241	5,043 – 5,352
2032	4,861 – 5,175	227 - 244	5,088 – 5,419
2033	4,901 – 5,236	229 - 247	5,130 – 5,483

It should be noted that on 14 February 2024 the prison population was 4,825, which is at the highest end of the projected figure in the table above.

If this rate continues, it is forecasted that by 2033 there will be between 5,130 and 5,483 adults in prison. This is considerably more than the current capacity of the prison estate, and would still represent a far greater number than could be accommodated should current capital expansion plans proceed (*see 4.3 below*).

Further, it is also considered likely that increased Garda recruitment will increase charge volumes and ultimately prison population. Historical data bears out this proposed correlation and it can be seen that Garda strength and prison population increase and decrease in tandem. Based on the mean average Garda to prisoner ratio of 3.6 Gardaí to 1 prisoner, the Government's commitment to 1,000 extra members of An Garda Síochána could result in the short term of 250+ extra prisoners. Such a projection is dependent on the focus of the work of

An Garda Síochána when these extra resources are in place. Should the focus be placed more on crime prevention, this may actually lead to a decrease in crime detection, which may impact the number of extra prisoners to be expected.

Garda strength is one aspect of the criminal justice system. Increases in the capacity in other bodies in the criminal justice system such as FSI, ODPP, and the Courts may also increase the number of convictions and custodial sentences annually. The appointment of additional judges to the criminal courts would have a notable impact, although it is not yet possible to quantify despite recent efforts to improve data collection within the Courts Service.

3.5 Trends

These projections are informed by an understanding of the history of offending types and criminal sanctions in relation to same. With the continued rise in connectivity and rapid technological advances, the nature of crime may be experiencing a shift. In this regard, Europol's Internet Organised Crime Assessment (IOCTA) identifies the increasingly complex and multi-national nature of many forms of cybercrime, from payment fraud to online sexual exploitation or money muling. With the understanding that the offenders at the root of these offences may live in other jurisdictions, it is worth considering the potential impact this may have on prison population projections.

However, alongside this, the CSO Recorded Crime Statistics for Q3 2023 identify that fraud, deception and related offences were down 27%. In contrast, there have been notable increases in offline physical and violent offences, with a 16% increase in theft and related offences and a 24% increase in robbery, extortion and hijacking offences.⁴ This indicates that, while cybercrime may be on the rise, and its perpetrators may be outside of the Irish jurisdiction in some or many of these cases, the offline offences are largely unaffected and will maintain pressure on the prison system.

Further to this, a recent short paper prepared by the Department's Research and Data Analysis team examined the trends in average sentence lengths, as reported from the IPS database, between 2013 and 2022. Overall, of note is that while there have been year on year variances, the underlying trend in many of the groups has been relatively stable, with no significant increase or decrease. Indeed, of the groups reported above, there were only two notable increases in average sentence length over the reporting period: burglary and fraud offences. There was also only one notable decrease: controlled drugs offences. For the full paper, see **Appendix III** below.

In the context of trends and projections, this paper indicates that there has been notable stability in relation to the sentencing patterns across offence types. Considered alongside the

⁴ CSO Recorded Crime Q3 2023.

CSO statistics, and the continued increase in the State's overall population, it is reasonable to conclude that the detailed projections (see 3.4 above) are robust and without significant intervention the prison population can be expected to continue to rise according to the established trajectory.

4. Actions Taken to Date

While it has notably worsened in recent months, the issue of prison overcrowding has been a pressing matter since the full resumption of the criminal courts following the withdrawal of COVID-19 related public health measures. In this context, a number of actions have been taken to date to alleviate stress on the operations of the service.

4.1 – Temporary Release and sentences of 12 months or less

On 28 November 2022 the Irish Prison Service submitted correspondence to the Minister for Justice on the management of prison overcrowding. Noting that the numbers in custody had risen to 4,345, with an overall occupancy rate of 99%, and that on this date 100 prisoners were accommodated on mattresses on the floor of another person's cell, the Director General wrote to inform the Minister that, in line with the Delegated Authority agreed with the Department in August 2021, the IPS Director of Operations had been instructed to grant significant additional unstructured temporary release concessions to prisoners serving sentences of 1 year or less who are deemed, by the nature of their offence, to pose a low risk to public safety.

4.2 – Expansion of eligibility for structured release programmes

Separately, in August 2022 the Irish Prison Service submitted a proposal for the implementation of a number of measures, to be taken by the Director General when required, to allow for the continued management and regulation of the prison population in line with the operational capacities in all prisons.

These proposals included:

- To broaden the eligibility criteria for the Community Return Scheme (CRS) to allow prisoners serving a sentence of between 3-5 years to be considered to be eligible at half-way through their remitted sentence;

- To broaden the eligibility criteria for CRS to allow prisoners serving sentences from 12 to 18 months to be deemed eligible on committal;
- To increase the eligibility criteria for the Community Support Scheme (CSS) to allow prisoners serving a sentence up to 18 months to be considered; and
- To grant Temporary Release (TR) for all lower risk prisoners (subject to risk assessment) serving a sentence of less than 12 months, subject to public safety criteria. Such releases would be subject to individual assessment and the offender could be returned to prison in breach of TR conditions.

An eSub for this matter was drafted in November 2022 and the proposals came into effect in March 2023.

4.3 Capital Expansion

Over the last 18 months additional capacity in excess of 200 new spaces has been added to the prison estate:

- the Training Unit in Mountjoy was reopened in summer 2022 providing an additional 96 spaces,
- the opening of new male accommodation in Limerick in late 2022 provided an additional 90 cell spaces, and
- the new standalone female prison in Limerick opened in 2023 provides an additional 22 female cell spaces

Following proposals from the Irish Prison Service, the Department has committed to progressing four additional short-term capital projects at Castlerea, Cloverhill, the Midlands and Mountjoy that could provide accommodation for a minimum of 620 additional prisoners over the next 5 years. Engagement is ongoing with the Department of Public Expenditure, NDP Delivery and Reform with a view to progressing an agreed schedule of capital builds. Delivery of these spaces is dependent on successfully steering through the provisions of the Public Spending Code.

Alongside this, the Irish Prison Service continues to look at other opportunities to yield additional prison spaces within the existing prison estate.

5. Prison Overcrowding in the International Context

5.1 International Standards

The recommendation of the Council of Europe's Committee for the Prevention of Torture (CPT) is that the safe limit should be operating at 90% of total capacity. Ireland's current levels of prison overcrowding far exceed this recommendation.

In the 2022 report of the Council of Europe Annual Penal Statistics (SPACE I), the average prison density per 100 places across all Member States stood at 84.8, and the median stood at 88.2. At the present level of overcrowding in prisons in Ireland, as of 18 October 2023, this metric of prison density per 100 places stands at 103, well above the average or median.

The CPT has also set a number of minimum standards for personal living space in prison establishments, including:

- 6m² of living space for a single-occupancy cell (+ sanitary facility)
- 4m² of living space per prisoner in a multiple-occupancy cell (+ fully-partitioned sanitary facility)

The current level of overcrowding in prison has resulted in sustained over-utilisation of physical space per prisoner in cells not intended for multiple occupancy, against the recommendations of the CPT. This may involve the use of bunk beds where not intended, or the well-publicised practice of individual prisoners sleeping on mattresses on cell floors. While the Irish Prison Service has installed a number of bunk beds in single-occupancy cells, at times there have been approximately 200 prisoners sleeping on mattresses on cell floors.

5.2 Consequences of prison overcrowding

Prison overcrowding leads to an increase in tension between prisoners, as they are forced to share limited space, and a related decline in mental health. This combination leads to an increased risk of violence amongst prisoners, and as such poses a threat to the health and safety of prison officers.

The increase in prisoner population also stretches limited staffing levels significantly, as it requires the redeployment of staff into landings, and other shared spaces, for safety reasons. This has a direct knock on effect of decreasing access to education and rehabilitation services, as the staff required to facilitate such services are necessarily diverted to other duties to ensure the safe running of the respective prisons.

The cumulative effect of prison overcrowding is not limited to the prisons then, as the disruption to services intended to address root causes of offending or provide supports to prepare individuals for release decrease the likelihood of reintegration. This ultimately results in an increased threat to public safety.

5.3 'Overcrowding' in England and Wales

It is beneficial to also consider the current level of overcrowding in the context of the overcrowding in the prison system of England and Wales, a crisis situation concurrent with that experienced in this jurisdiction. This system has a 'useable operational capacity' of 88,782. Importantly, this figure is calculated as *'the sum of all establishments' operational capacity less 1,340 places ... known as the operating margin ... reflect[ing] the constraints imposed by the need to provide appropriate accommodation for different classes of prisoner ... and also due to geographical distribution'*.

On 13 October 2023 the prisoner population in this system was 88,016. This is below the useable operational capacity, yet its upward trajectory and its moving closer to the useable operation capacity figure has caused the UK Government to identify this as a prison population crisis. As a result of this, the UK Government has announced a number of significant actions, including:

- Early release on licence of prisoners serving fixed determinate sentences up to 18 days before their automatic release date. This was previously used between 2007 and 2010;
- Legislating for a presumption that sentences of less than 12 months in prison will be suspended;
- Making available a greater use of GPS tags for electronic monitoring of compliance for suspended sentences;
- Expanding the Early Removal Scheme to enable a maximum sentence discount of 18 months (extended from the current 12 months), for foreign national offenders to be removed from the UK;
- A commitment of £400 million for more prison places;
- Legislating to allow prisoners to be held in prison places rented from other countries;
- Considering increasing the reduction in sentence for a guilty plea, to encourage early guilty pleas and reduce the number being held on remand;
- Reviewing the use of recall to prison of prisoners released on licence;
- Looking at options to reduce the licence period of prisoners serving a sentence of imprisonment for public protection; and
- Keeping the expansion of Home Detention Curfew, which allows for the early release of offenders monitored by electronic tag, under active review.⁵

5.4 Conclusions

⁵ *"What is the Government doing to reduce pressure on prison capacity?"*, House of Commons Library, 19 October 2023.

Ireland's current level of prisoner population is notably above the level recommended by the CPT, it is above the 95% level agreed in the Service Level Agreement of the Irish Prison Service, and it is higher than the absolute capacity of the current prison estate, posing a threat to the health, safety and wellbeing of prisoners and staff. The level of prisoner overcrowding is also markedly more severe than that of the system of England and Wales, as a close comparator, and the actions taken by the UK Government in response to the situation in that jurisdiction reflects a model for addressing the matter from which insight and learnings may be taken.

It must also be underlined that, as detailed above, this level of overcrowding has been on a consistent upward trajectory and all analysis of current trends and projections clearly indicate the situation in the Irish prison system will worsen in the short and medium term without appropriate crisis interventions.

6. Prison Overcrowding Response Group

The Department of Justice established a cross-sectoral Prison Overcrowding Response Group in July 2023. The goal of this Group is to assist driving a resolution to the overcrowding crisis through facilitating targeted cooperation and identifying key proposals for short term and medium term impact on prisoner population numbers.

6.1 Actions to date

The first meeting of the Prison Overcrowding Response Group took place on 2 August 2023. In advance of this meeting, the Irish Prison Service provided a list of 14 proposals to address the crisis (*see APPENDIX I below*). A small number of these actions, which refer to operational matters, have been completed.

Following this meeting, detailed responses were received from all members of the Group in relation to the proposals. Policy officials also circulated an initial response to an IPS proposal to introduce a waiting list for committals to prison, based on the Norwegian model, and subsequently held a bilateral meeting with Norwegian counterparts to obtain greater understanding of their experience.

The second meeting of the Group took place on 29 September 2023, during which a number of the IPS proposals were examined in depth, with agreements made on progressing matters in relation to a number of these actions. Approval was also given at this meeting to establish

a subgroup to progress the development of proposals for a pilot for electronic monitoring, in line with commitments made under Justice Plan 2023.

The third meeting of the Group took place on 19 October 2023, during which an update was provided in relation to work agreed at the previous meeting. This meeting also featured substantive examination of a number of new proposals prepared by Policy officials (see **Appendix II** below). It was agreed at this meeting that a report of the work of the Group, identifying priority actions for approval, would be prepared for discussion at the next meeting of the Group.

Policy has progressed the drafting of this report, and the identification of agreed priority actions for approval.

6.2 Proposals considered and declined

A number of proposals to address the prison overcrowding crisis were considered within the group and have been declined. These have been declined because they have been considered insufficiently effective, too long-term to address the current crisis, not appropriate for the context of our legal and penal system, or not in the best interest of public safety. These proposals include:

- a. Immediately reduce court sittings, to stem the flow of convicted individuals into prisons

This was considered counter to the ongoing work to address the backlog of cases and the new judicial appointments.

- b. Expand the eligibility criteria for the Community Return Scheme

As the eligibility criteria for this scheme were expanded significantly in March 2023, it is considered too soon to make further changes. The recent expansion should be allowed time to take effect in a manner which could be assessed for impact.

- c. Consider the use of Temporary Release for:

- repeat offenders;
- those convicted of an assault on AGS / Peace Officer, prolific burglary, and other serious offences; and
- those with barring and/or safety orders where no evidence of breach of barring order is known.

These cohorts were considered to pose too great an immediate threat to public safety to recommend increasing the use of TR.

- d. Continue to consider Temporary Release for sentenced prisoners who are homeless;

A decision was made to engage directly with the Department of Housing, Local Government and Heritage to explore avenues to increase homelessness supports for this cohort in a structured manner which might in time facilitate increased use of TR.

- e. Introduce a 'waiting list' system for people sentenced to prison (modelled on the waiting list in operation in Norway)

Following engagement with Norwegian officials, it is clear the waiting list itself did not solve overcrowding, and could only be considered effective as part of a suite of actions in this space. As such, this was not considered viable in relation to the degree of effort and cost that would be required and the relevant outcomes that may not be commensurate at this time.

- f. Renting prison spaces in other jurisdictions

No appropriate jurisdiction was identified, and the expense and time required to identify same and progress work in this space would distract from more effective short-term goals.

7. Actions currently being progressed

The group identified and agreed to progress a number of actions which may be pursued within existing structures and commitments and which would not require formal approval. These include:

- a. To explore how the use of electronic monitoring could be operationalised for relevant cohorts.

A key Justice Plan 2023 commitment, a group has now been established, which it was decided would be a subgroup of the Prison Overcrowding Response Group, to consider potential suitable categories of offenders and alleged offenders for whom electronic monitoring could be considered and to develop an outline plan to guide an approach to operationalise electronic monitoring. The subgroup is due to update the Management Board on the outcome of its deliberations in an outline plan in December 2023.

As the subgroup continues its deliberations, it is not possible at this time to determine the level of impact that a pilot or programme on electronic monitoring would have on relieving

the pressure on prison places, nor how soon, for example, that a pilot could be commenced.

- b. To advance discussions with the Department of Housing, Local Government and Heritage regarding extending homelessness services to facilitate greater release of those identified as homeless.

In line with 5.2.d above, a decision was made to engage directly with the Department of Housing, Local Government and Heritage to explore avenues to increase homelessness supports for this cohort in a structured manner which might in time facilitate increased use of TR. Engagement on this matter is ongoing.

- c. To continue to work with the Bail Review Working Group to explore options that may lead to a decrease in numbers being held on remand.

The Bail Review Working Group will have an impact on the use of remand and the numbers held in prisons. The work of this group is ongoing.

- d. To advance research with the Irish Prison Service on the outcomes of those being held on remand which subsequently receive no conviction or a sentence that does not result in imprisonment.

The Review of Policy Options for Prison and Penal Reform 2022-2024, approved by Government in August 2022, contains a commitment to commission research on the use of remand. Of particular interest is the number and nature of those who are held on remand but who do not receive a sentence of imprisonment, either through no conviction or through receiving a sentence less than imprisonment. Engagement between the Department and the Irish Prison Service is ongoing to progress data collection and subsequent analysis.

8. Agreed priority actions, for approval

To promptly address the prison overcrowding crisis for the short and medium term, a number of actions have now been identified that require approval.

It should be noted that, in line with the nature of this crisis response, most of the options have not been costed or allocated funding in Budget 2024, and some will have cost implications that will require additional funding.

- a. To amend the Criminal Justice (Community Service) Act 1983 and the Criminal Justice (Community Service) (Amendment) Act 2011, as a legislative priority, to provide that the limit of community service hours be increased to up to 480 hours, and the requirement for the judiciary to consider community service be mandatory where considering a custodial sentence of up to 2 years or less.

At present the Criminal Justice (Community Service) Act 1983 places a maximum limit on the number of community service hours that may be handed down at 240. Relatedly, the Criminal Justice (Community Service) (Amendment) Act 2011 obliges the judiciary, at the point of sentencing, to consider when handing down a sentence of 12 months or less whether or not a sentence of community service would be an appropriate sentence in place of a custodial period.

The Review of Policy Options for Prison and Penal Reform 2022-2024, approved by Government in August 2022, makes the case for legislating for prison as a sanction of last resort, with a particular emphasis on the disproportionate impact short prison sentences have not only on the offender but also on their family, their community, and ultimately on public safety. In this jurisdiction there is an informal identification of 'short' sentences as those of 12 months or less, whereas other jurisdictions have extended the understanding of short sentences to up to 36 months.

Increasing the range of community service up to 480 hours would provide the judiciary with a significantly expanded community-based sanction for those they consider suitable to serve their sentence in the community, while also recognising the harm caused by offenders and holding them to account for their actions. Relatedly, the requirement to consider community service when handing down sentences may be increased from 12 months up to 24 months.

In the information note for September 2023 the Irish Prison Service identified 761 males and 90 females serving sentences of less than 2 years. While amending the relevant legislation would not apply to these sentenced individuals, and not all would be considered suitable for community service by the judiciary at sentencing, it is reasonable to expect that this would have a significant impact on the number of individuals being sent to prison for sentences of less than 2 years, where a non-custodial sanction is deemed more appropriate and effective.

It should be noted that the policy review of the Criminal Justice (Community Sanctions) Bill 2014, as approved by the Minister subject to final clarifications, proposes an amendment to the Criminal Justice (Community Service) Act 1983 to provide for Community Service Orders of between 40 and 360 hours. This policy review sets the maximum number of hours below the current highest in any European jurisdiction (the highest is 420 hours in Norway). However, this review was conducted at a time when prison population numbers were below their current level, and before the Prison Overcrowding Response Group was formed. There may be merit in considering

extending beyond the 360 hours proposed in this context then, though extending to 480 hours would have notable resource implications in terms of capacity within the overall community service operational system, and would have significant impact on the offender, and may increase risk of failure to complete orders.

- b. To reduce existing sentences of imprisonment by way of order by the Minister for Justice.

Article 13.6 of Bunreacht na hÉireann provides for the power to commute or remit sentences in part or in whole. S.23 of the Criminal Justice Act 1951, as amended by s.17 of the Criminal Justice (Miscellaneous Provisions) Act 1997, provides for the Minister for Justice to exercise this power.

The Minister for Justice may reduce all sentences by a set number of days. While exact data on the potential impact of such a reduction is not currently available, the IPS have previously assessed impact should the reduction be calculated in terms of numbers of days. As of April 2023:

- A 20 day reduction in the length of all sentences would result in the release of 59 prisoners immediately;*
- A 30 day reduction in the length of all sentences would result in the release of 84 prisoners immediately; and*
- A 40 day reduction in the length of all sentences would result in the release of 126 prisoners immediately.*

While these figures relate to April 2023, they provide an indication of the scale of impact such a reduction might have.

Any such reduction would have to apply to all offence types serving determinate sentences, and may also apply to the suspended portion of a sentence imposed. This would include sexual offences and violent offences, as these are the largest cohort taking up the greatest amount of prison space, who often are not considered suitable for temporary release schemes, and as such provide the greatest potential for decreasing the prisoner population. Any reduction which excludes categories of offences may be subject to challenge, and may have disappointing returns in relation to the targeted intervention for the overcrowding crisis.

Two alternative approaches may be considered regarding reducing sentences in a manner that would have appropriate impact; a blanket commutation of all sentences under a certain length, or a blanket reduction of all sentences of imprisonment by up to 8% (to ensure this does not come into conflict with current enhanced remission provisions). In relation to the former, it could be possible to reduce the sentences in a manner which moves these individuals out of the prison but into a community-based

sanction, an action which would be in line with the relevant recommendation of the 2013 Oireachtas Joint Committee on Justice, Defence and Equality's 'Report of Penal Reform'.

c. To approve in principle the development of a process through which those convicted of sexual offences may be released on conditional supervised Temporary Release in conjunction with electronic monitoring, subject to the outcome of the work of the subgroup on electronic monitoring.

Due to the nature of their offence and the impact on victims, those serving sentences for sexual offences, while remaining eligible, rarely receive temporary release. As a result, a large percentage of the current prisoner population is composed of those convicted of sexual offences.

However, CSO statistics on reoffending identify this cohort as amongst the least likely to reoffend, and this may be particularly prescient for those convicted of historical sexual offences.

While acknowledging the harm caused by these offences, there may be scope to increase the percentage of those successful in their applications for Temporary Release if additional obligations and controls, beyond existing post-release supervision orders and the operations of SORAM, may be in place during such periods of release.

The work of the subgroup on electronic monitoring is ongoing, with a view to updating the Management Board on the outcome of its deliberations in December 2023 advising an outline plan for next steps and feasibility of applying EM for appropriate cohorts of offenders/subjects, noting that the duration of EM may be limited to 6 months in the case of sex offenders and other categories

They will not be the only cohort, as the point has been made clearly that any such singling out may subject to abuse those on Temporary Release identified as wearing electronic monitoring hardware.

Any inclusion of those serving sentences for sexual offences in this pilot would still be subject to the agreed terms of the Delegated Sanction regarding Temporary Release and the Minister for Justice's role in same.

d. To develop new structured temporary release scheme for women serving sentences of 12 months or less.

In the information note for September 2023 the Irish Prison Service identified 52 women serving sentences of less than 12 months. This represents approximately 25% of the total capacity for female prisoners.

Due to their sentence length, these women would be eligible for the current Community Support Scheme. However, they are not considered eligible due to complex reasons required forms of support and structure that extend beyond that of the Community Support Scheme.

The formation of a new scheme targeting this cohort, to be scoped out and run by the Probation Service, would look to address their complex needs while also ensuring the sentences can be served in the community wherever possible and appropriate for the individual. Comprehensive data on the characteristics and circumstances of women serving sentences of less than 12 months will be crucial to the development of responsive and effective programmes, along with access to appropriate community-based resources.

It is not expected such an action could be completed in the short term. It is however in line with the commitments in the Review of Policy Options for Prison and Penal Reform 2022-2024 in relation to addressing women who offend, and may have medium and long term impacts on prisoner populations in the State's female prisons.

- e. To repeal enactments providing for the ineligibility of those serving presumptive minimum sentences for Temporary Release, and parole.

Under s.29 of the Judicial Council Act 2019, the Minister for Justice is obliged to conduct a review of minimum sentencing and lay a report on same before the Houses of the Oireachtas before 13 December 2022.

A report has been prepared, which has been approved by the Minister, and is due to be laid before the Houses of the Oireachtas shortly. This report recommends repealing all enactments relating to the ineligibility of individuals handed down presumptive minimum sentences to be considered for temporary release and parole, under regulations to be put in place under s.24 of the Parole Act 2019.

Legal provisions to repeal the relevant enactments should be prioritised. While this may not result in a large number of individuals eligible for Temporary Release, it will have some impact.

- f. To prioritise progressing the Criminal Justice (Community Sanctions) Bill 2014, retaining the emphasis placed on prison as a sanction of last resort.

A policy review of this Bill has been completed. The Minister has approved the review, subject to outstanding questions regarding prison as a sanction of last resort.

The revised Bill will provide a clear outline of community-based sanctions, along with updating the role of the Probation Service in relation to same, and should ultimately contribute to an increase in the use of community-based sanctions and a decrease in the use of imprisonment where appropriate.

This Bill is not currently scheduled as priority legislation. Approval is sought to prioritise this legislation.

- g. To amend legislation that governs post-release supervision so that Court-ordered post-release supervision by the Probation Service can commence from the first date of Reviewable Temporary Release rather than the remission date.

Amending the commencement of Court-ordered post-release supervision both recognises the reality of Temporary Release while also enabling the Probation Service to utilise resources with greater targeting and efficiency.

Currently, a prisoner with a post release supervision order can be granted temporary release even when there is no capacity for the Probation Service to supervise that period. Where there is no supervision capacity, this results in the prisoner not being supervised while on temporary release, then being required to be supervised on expiry of the prison term in accordance with the order of the court. This process, with such a gap, is not conducive to risk management, public safety or to offender reintegration.

The proposed amendment would ensure continuity of engagement and support for the prisoner and for the community. It brings forward the start time of the Court order but does not reduce the period requiring supervision. As such, the amendment has public safety and reintegration benefits rather than resource savings. It will however place challenges on pre-release planning and throughcare, where there is a short notice period post a positive decision being granted.

This action would have positive impact on the capacity of the Probation Service, and should be seen as complementary to a number of other proposals above which would increase demands on the Probation Service.

- h. Review the processes and eligibility for the Drugs Treatment Court to increase catchment of individuals sentenced to low-level drugs-related crimes.

A commitment to review the current use of the Drugs Treatment Court has been made in the National Drugs Treatment Strategy.

Expanding eligibility for the process, and reassessing measurements of success, may provide a diversion away from prison for a greater number of individuals than present, though the numbers affected are likely to be modest at this time.

- i. Recognising their constitutional independence, to engage with the Judiciary and encourage the use of the community service orders rather than the imposition of sentences of 12 months or less.

Such engagement may be conducted either through the subgroup of the Judicial Planning Implementation Group on Stakeholder Engagement, or with the Judicial Council's Sentencing Guidelines and Information Committee, as deemed appropriate.

Such engagement might represent an opportunity to outline the current crisis the prison system is currently facing, outlining plans to address this crisis, and asking that the judiciary look to decrease the number of those handed sentences of less than 12 months to as low as possible, and potentially even nil.

- j. Establish a specialised Probation Service Supervised Temporary Release response which can be expanded and scaled in response to the growing pressures on the Irish Prison Service resulting from increasing prisoner numbers.

The Probation Service will provide a dynamic response to urgent prison crowding pressures being experienced by the Irish Prison Service by establishing a specialised Supervised Temporary Release Unit, which will replicate the effective Young Person's Probation structure.

This will involve the establishment of two dedicated Supervised Temporary Release teams initially in Dublin and Munster (Cork/Limerick). The Units will act as a regional floating service, managing cases for which there is no community supervision immediately available. The Unit will work with the client to stabilise them in the community before handing over to the relevant community team. It will enable the flexibility to respond to prison pressures and seamless transition of cases to community teams in areas of high demand.

It will be complemented by restructuring and expansion of the Community Return Scheme, increasing the rolling figure from its current level of 75 prisoners to an initial 200, with the potential to further scale up to 400 prisoners, who would be under Probation Service supervision while undertaking Community Service tasks as a condition of their Supervised Temporary Release. These numbers are proportionate to and dependent on staffing.

The proposal has the potential to reduce the number of persons in custody of 400 persons on a Supervised Temporary Release scheme, to be scaled up over a 2-year period. Targets are for agreement with the IPS and Department of Justice and subject to agreed eligibility criteria.

A 400 capacity figure roughly equates to the building and operation of two medium-sized closed prisons. Cork Prison is used as an example which cost €35m to construct. With adjustment to today's building figures, the construction of a prison similar to Cork would cost between €120-€140m. The operating costs, based on an approximate cost of imprisonment as €80,000 per prisoner per annum, equates to upwards of €20m per annum.

The potential savings of the proposal, therefore, comprise a capital expenditure in excess of €240m and an annual operating expenditure of more than €40m.

This proposal has previously been submitted in August 2022 and resubmitted by the Probation Service as part of the Estimates process earlier in 2023.

k. Purchase Rapid Deployment Cells

Rapid Deployment Cells have a lifespan of around 15 years and are designed to quickly create extra capacity across the prison system estate to meet rising demand, often intended for use while longer-term expansion is underway. According to one manufacturer, individual Rapid Deployment Cells include "a bedroom area with desk and ensuite bathroom with shower. The accommodation block includes a multifunctional room communal space, servery and laundry room, where prisoners can do their washing and ironing".

In England and Wales the Ministry of Justice and HM Prison and Probation Service has ordered 1,000 units for use across 18 prison sites. The first of these units were opened in HMP Norwich in March 2023, reportedly seven months after contracts were signed. Total costs are not currently known, but it has been indicated that the first batch of 396 units will cost £22m, with a further 215 units costing £12m.⁶

⁶ [Algeco secures £34m order for quick-build prison cells](#), Construction Enquirer.

The purchase of Rapid Deployment Cells would provide some short-term relief to current overcrowding, while also enabling longer-term development of the prison estate. The number of cells purchased would be subject to the identification of appropriate space in existing prison grounds.

The purchase of these cells would also be subject to engagement with the Department of Public Expenditure, NDP Delivery and Reform and would be dependent on successfully steering through the provisions of the Public Spending Code.

9. Next Steps

Following preparation of this report, approval is now sought to progress the priority actions identified as appropriate.

_____ ENDS

APPENDIX I – Irish Prison Service Proposals, July 2023 (abbreviated paper)

1. To build capacity in the prison system with rapid build options to increase bed spaces in a short timeframe. IPS need to act on doubling-up cells in any available accommodation. This will require the appointment of a bed manager dedicated to the task of identifying suitable space in consultation with HR for necessary staffing to bring any suitable space into use.
2. To stem the flow of new committals into prisons immediately by reducing court sittings attending to criminal matters.
3. To engage with the Probation Service to seek a solution to divert caseloads across teams in order to address some backlogs in prisoner assessments for candidates who have been identified for participation on the Community Return Scheme.
4. To expand the scope of the Community Return Scheme again. It is recommended to revise the terms of the Community Return Scheme so that prisoners committed to prison do not have to wait until they have served the required minimum term before being referred for assessment and release to the scheme. It is recommended that prisoners committed to prison for a sentence up to 3 years in length may be referred for consideration under the Community Return Scheme after 1 day in prison custody.
5. To continue to consider all possible options for Temporary Release for medium to high-risk sentenced prisoners to alleviate the risk of harm within prisons due to overcrowding, having regard to the requirements of the Criminal Justice (Temporary Release of Prisoners Act), 2003 and other risk and protective factors on a case-by-case basis. It should be noted that this wider consideration includes active consideration of prisoners who :
 - a)are repeat offenders;
 - b)are convicted of assault on Garda/Peace Officer, prolific burglary and other serious offences;
 - c)have barring and/or safety orders where no evidence of breach of barring order is known;
 - d)have registered victims;
 - e)have future court dates for a District Court where there is no direction to detain until the court date;
 - f) have failed to comply with RTR conditions previously.
6. To seek an update on the review on remission rates that was commenced by the Department, and consideration of the Criminal Justice 1951 Act s. 23 that provides

for the Government to commute or remit in whole or in part any punishment imposed by a Court.

7. To notify the Minister for Housing that there are a high number of prisoners in prison custody who would otherwise be released if it were not for their homeless status and ask that Local Authorities provide a direct and dedicated response to this customer group by opening winter provision or housing vacated by Ukrainian refugees to direct allocation to prisoners leaving prison custody.
8. To continue to consider Temporary Release for sentenced prisoners who are homeless, having regard to the requirements of the Criminal Justice (Temporary Release of Prisoners Act), 2003. This will also involve approving Full Temporary Release for people who are homeless as without an address they cannot comply with certain TR conditions. To note that this may mean contravening the IPS Prisoner Release Policy and agreements with An Garda Síochána following the Folan report.
9. To reduce the number of prisoners remanded to custody instead of remanded on bail. There is a need to accelerate a plan for a bail supervision scheme for female offenders in particular. To also reduce the number of prisoners having to be committed to prison prior to taking up bail. The Courts Service need to make provision to discharge bail at the Court negating the need to process a prisoner through the committal process in a prison only to be released hours/days later when the cash bail is presented.
10. To take the necessary steps to put in place a waiting list system for people convicted by Courts where there is no prison space to accommodate similar to management of Children Detention Schools.
11. To take steps to review the potential to grant Temporary Release to people convicted of a sex offence. Consideration should be given to categorising people convicted of a sex offence and start with consideration for those for whom the sentence for a sex offence is historic and not current, and for lesser grade sexual offences, before moving to consider older, medically dependent people with a sex offence with active engagement with the SORAM process.
12. To examine potential to amend legislation that governs post-release supervision so that post-release supervision by the Probation Service can commence from the 1st date of Reviewable Temporary Release rather than the remission date and for the length of time from the RTR date to the end of the time indicated e.g. 2 years from RTR date instead of remission date. This would provide support to early releases and discharge the requirement for post-release supervision.

13. To take active steps to encourage diversion to community service orders prior to prison custody.
14. To actively consider the use of electronic monitoring in the community as a risk mitigation factor for releases.

DRAFT

**APPENDIX II – Supplementary Suggestions from meeting 19 October 2023
(abbreviated paper)**

1. Purchase rapid-build cells. Utilise new IPS team to identify appropriate land in current sites.

2. (a) Blanket commutation of all determinate-length sentences by 8%.

or

2. (b) Commute all sentences of 12 months or less.

3. Hire prison spaces in Eastern Europe.

4. Develop new version of something akin to Community Support Scheme for women serving sentences of 12 months or less.

5. Approach judiciary to ask they not hand down any new sentences of 12 months or less for a period of six months.

6. Revise the workplan of the EM subgroup to initiate a pilot of EM immediately.

7. Commute all Community Service Orders by 50%.

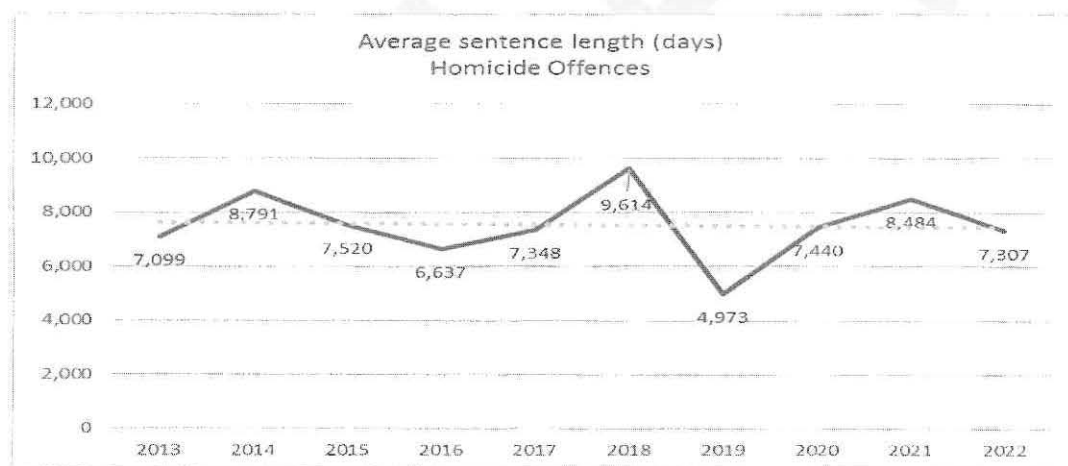
8. Immediately amend the Criminal Justice (Community Service) Act 1983 and the Criminal Justice (Community Service) (Amendment) Act 2011 to provide that the limit of community service hours be increased to 720 hours, and the requirement to consider community service be mandatory where considering a sentence of 3 years or less.

9. Review the processes and eligibility for the Drugs Treatment Court to increase catchment of individuals sentenced to low-level drugs-related crimes.

APPENDIX III - The Trend Analysis on the Average Sentence lengths by Offence Groups 2013 – 2022

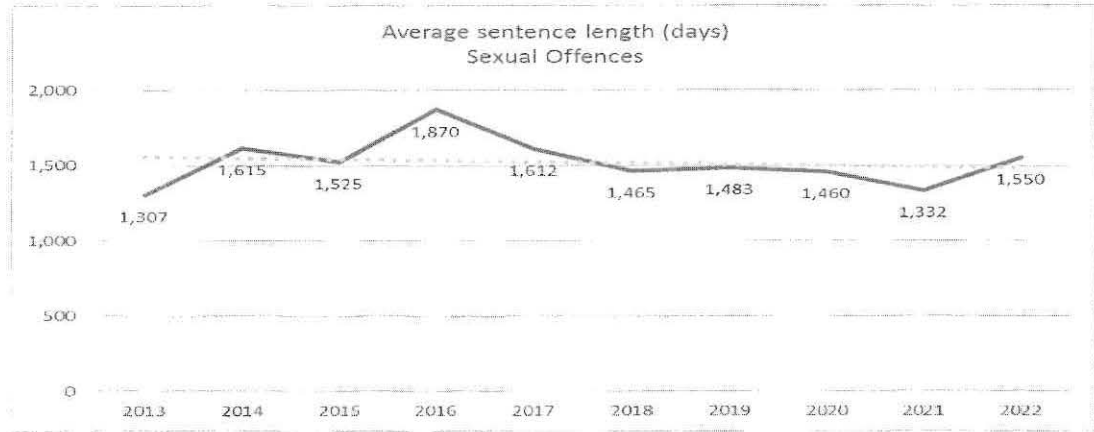
This paper identifies the trends in the average sentence lengths for those serious offence groups as classified under the CSO Irish Crime Classification System (ICCS). The data is drawn from the Irish Prison Service from the period of 2013 -2022. For each one of the 16 groups in the ICCS, excluding the Offence not Elsewhere Classified, the average sentence length in terms of days is mapped out by years. A trend line is also applied in order to ‘smooth’ out year on year variations to see if there are any significant long term trends. A linear trend line usually shows that something is level, increasing or decreasing as a steady rate.

Homicide Offences



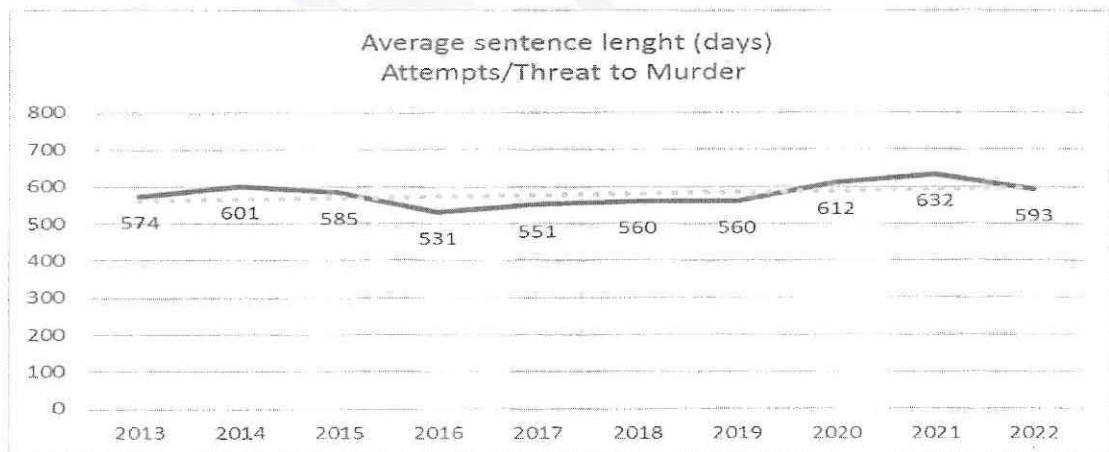
Between 2013 and 2022 the average sentence length for Homicide Offences was 7,521 days. There had been fluctuations on this figure with significant variances in certain years. However, over the period as a whole, the linear trend line (represented by the broken line) is relatively flat. There was no significant increase or decrease in the trend evident in the data.

Sexual Offences



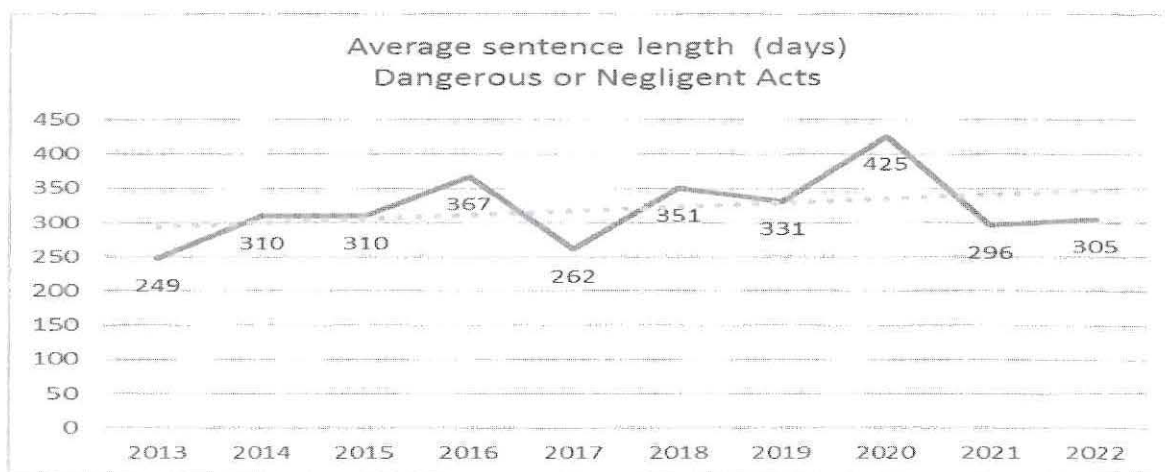
Between 2013 and 2022 the average sentence length for Sexual Offence was 1,522 days. The average sentence days peaked in 2016, and while there were some in year variations, over this period as a whole, there was no significant increase or decrease in the average sentence length for Sexual Offences.

Attempts/Threat to Murder



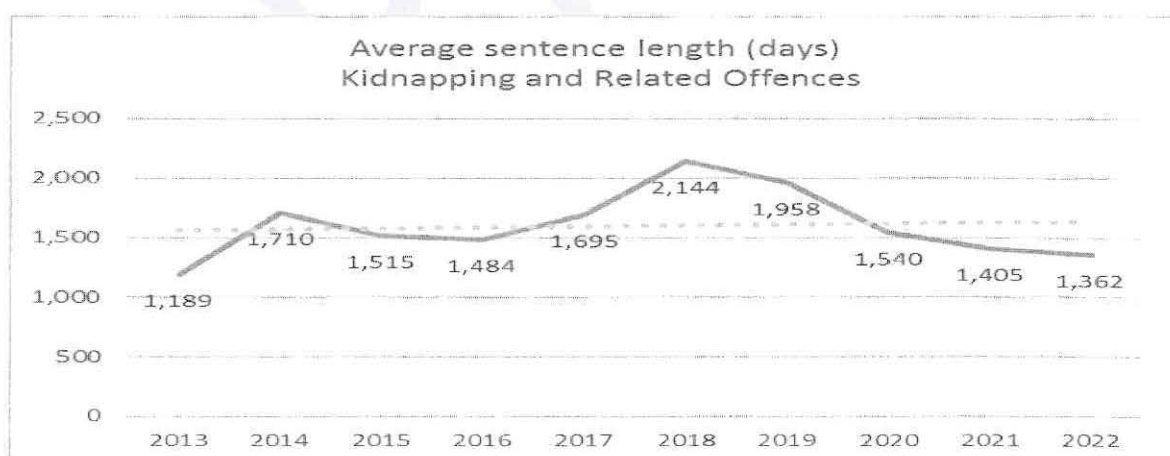
Between 2013 and 2022 the average sentence length for Attempts/Threat to Murder was 580 days. The overall trend for this group has been relatively stable with little significant variation year on year.

Dangerous or Negligent Acts



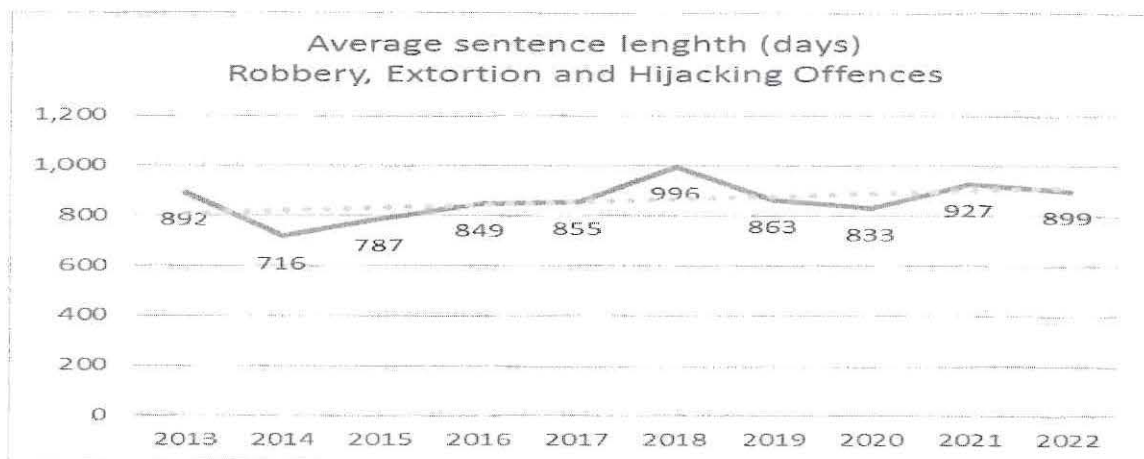
Between 2013 and 2022 the average sentence length for Dangerous or Negligent Acts was 321 days. The average sentence length over this period had been gradually trending upwards, however this could be influenced by the significantly high value in 2020 (425 days). In 2021 and 2022 average sentence lengths were lower. If this continues into 2023 it is most likely that the underlying trend line will flatten out.

Kidnapping and Related Offences



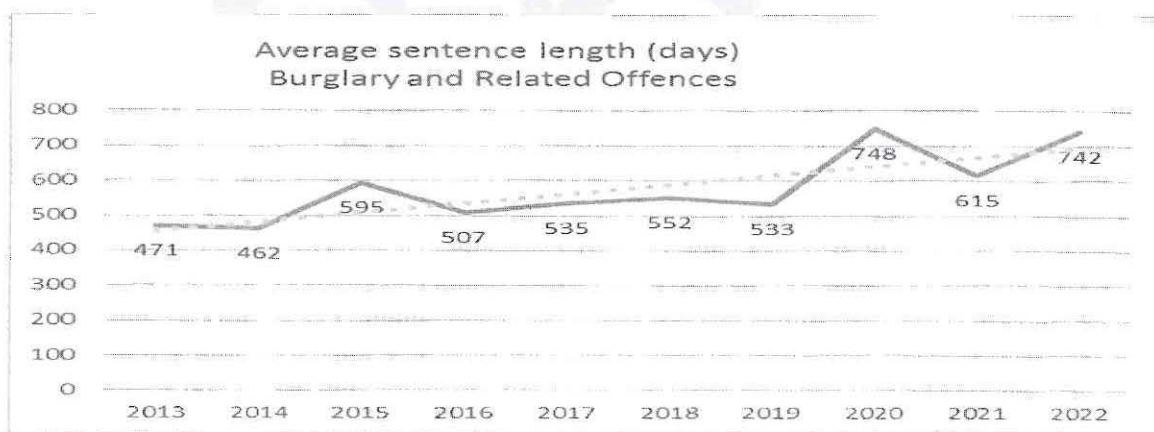
Between 2013 and 2022 the average sentence length for Kidnapping and Related Offences was 1,600 days. While the average sentence lengths did trend upwards to 2018 they have since reduced. The underlying trend is relatively flat.

Robbery, Extortion and Hijacking



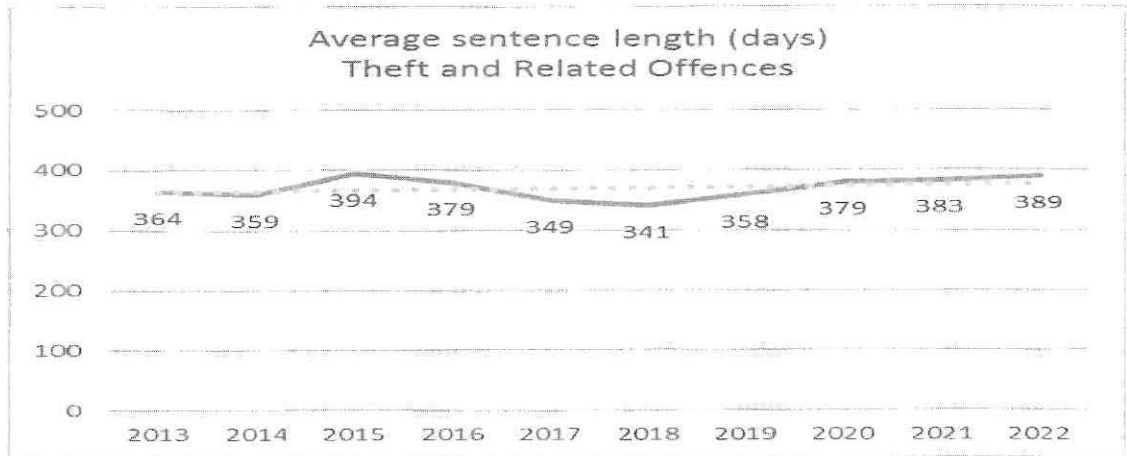
Between 2013 and 2022 the average sentence length for Robbery, Extortion and Hijacking Offences was 862 days. There were some noticeable in year variances and the number of sentence days peaked in 2018. Over this time period as a whole, the trend line showed a gradual, but not significant, rise in the sentence length.

Burglary and Related Offences



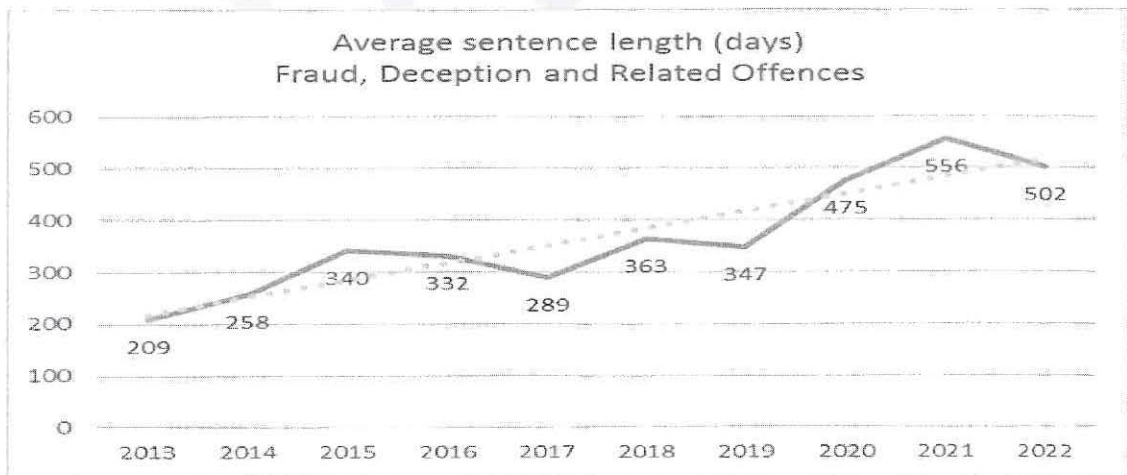
Between 2013 and 2022 the average sentence length for Burglary and Related Offences was 576 days. The average sentence days fluctuated dramatically in 2015 and 2020. The rate of change were noticeable especially during COVID years from 2020 to 2022. Overall, an upwards trend was observed in this reporting period, influenced by significantly higher average lengths between 2020, 2021 and 2022.

Theft and Related Offences



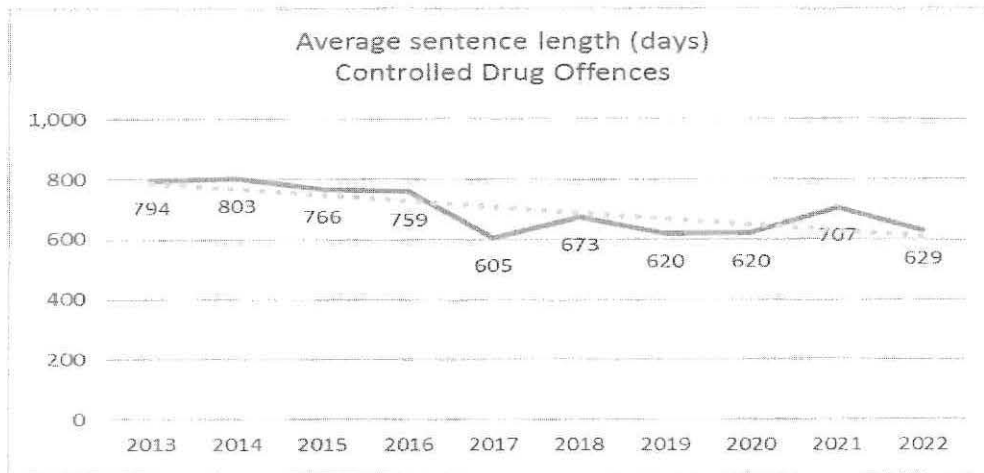
Between 2013 and 2022 the average sentence length for Theft and Related Offences was 367 days. There were little variances over the years and the trend remained relatively flat in this reporting period.

Fraud, Deception and Related Offences



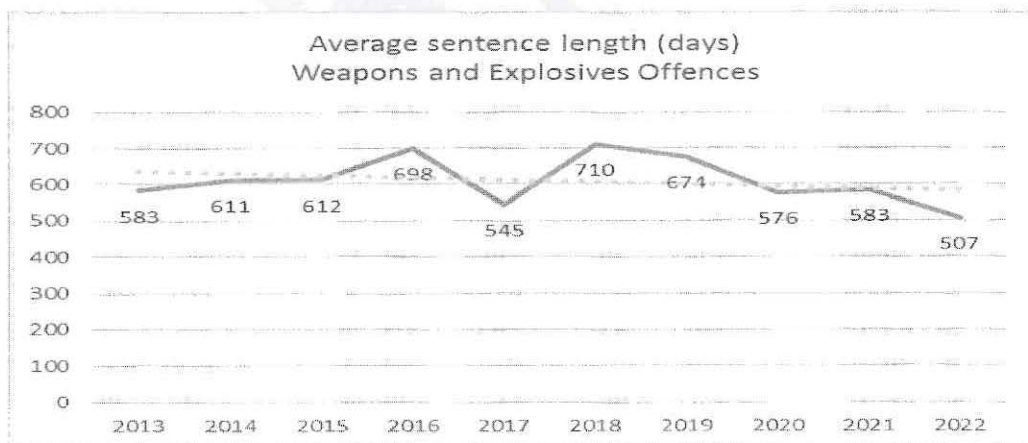
Between 2013 and 2022 the average sentence length for Fraud, Deception and Related offences was 367 days. While there had been variances over the years, the general direction of travel has been upwards. This is evident in both the year on year trend line and the underlying trend line.

Controlled Drug Offences



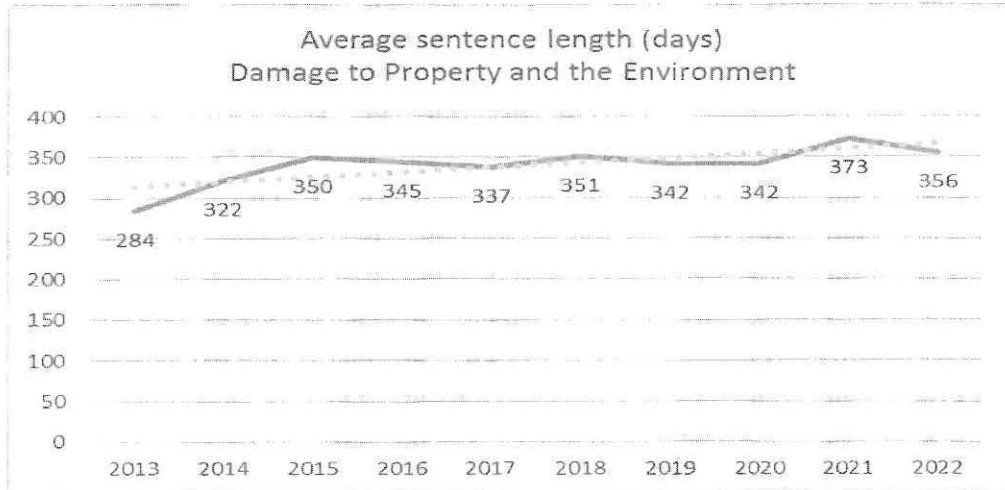
Between 2013 and 2022 the average sentence length for Controlled Drug Offences was 698 days. The number of average sentence days was much higher in the initial period, which fell into gradually into the lowest in 2017. The underlying trend line showed a steady decrease over this period.

Weapons and Explosive offences



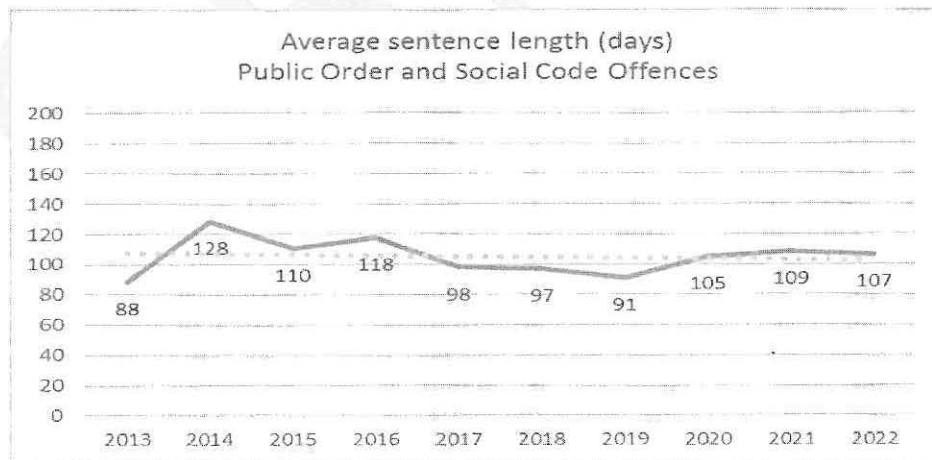
Between 2013 and 2022 the average sentence length for Weapons and Explosives Offences was 610 days. Over this period there had been significant year on year variation. The underlying trend line shows a slight, but not significant, downtrend in the average number of days sentenced.

Damage to Property and the Environment



Between 2013 and 2022 the average sentence length for Damage to Property and the Environment was 340 days. While it appears that the long term trend is upwards, this may be unduly influenced by the low value in 2013 and 2014. If we look at 2015 onwards, then we note that there is relative stability in the average sentence length across the years.

Public Order and Social Code Offences



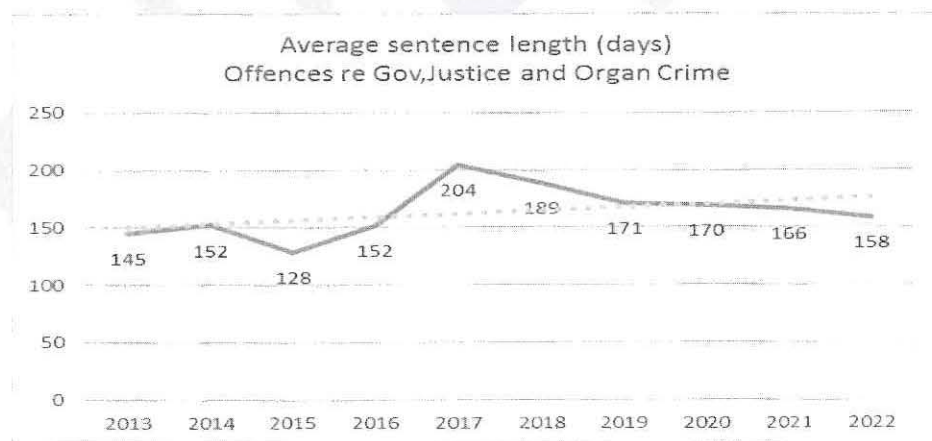
Between 2013 and 2022 the average sentence length for Public Order and Social Code offences was 105 days. Despite the fluctuations in the first 5 years, the trend was relatively stable throughout this reporting period.

Road and Traffic Offences



Between 2013 and 2022 the average sentence length for Road and Traffic Offences was 122 days. The general trend was relatively stable with little variances.

Offences against Government, Justice Procedures and Organisation of Crime



Between 2013 and 2022 the average sentence on Offences against Government, Justice Procedures and Organisation of Crime was 163 days. There was some year on year variations, with the average number of peaking suddenly in 2017 after which they gradually declined. Over this period as a whole, the underlying trend line showed a moderate increase.

Summary

This short paper examines the trends in average sentence lengths, as reported from the IPS database, between 2013 and 2022. Overall, of note is that while there have been year on year variances, the underlying trend in many of the groups has been relatively stable, with no significant increase or decrease. Indeed, of the groups reported above, there were only two notable increases in average sentence length over the reporting period: burglary and fraud offences. There was also only one notable decrease: controlled drugs offences.

Appendix

Offence	Average Sent Lgth (Days) Most Serious offence EXCLUDING FINES									
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
GP01 Homicide Offences	7,099	8,791	7,520	6,637	7,348	9,614	4,973	7,440	8,484	7,307
GP02 Sexual Offences	1,307	1,615	1,525	1,870	1,612	1,465	1,483	1,460	1,332	1,550
GP03 Attempts/Threat to Murder	574	601	585	531	551	560	560	612	632	593
GP04 Dangerous or Negligent Acts	249	310	310	367	262	351	331	425	296	305
GP05 Kidnapping and Related Offences	1,189	1,710	1,515	1,484	1,695	2,144	1,958	1,540	1,405	1,362
GP06 Robbery, Extortion and Hijacking Offences	892	716	787	849	855	996	863	833	927	899
GP07 Burglary and Related Offences	471	462	595	507	535	552	533	748	615	742
GP08 Theft and Related Offences	364	359	394	379	349	341	358	379	383	389
GP09 Fraud, Deception and Related Offences	209	258	340	332	289	363	347	475	556	502
GP10 Controlled Drug Offences	794	803	766	759	605	673	620	620	707	629
GP11 Weapons and Explosives Offences	583	611	612	608	545	710	674	576	583	507
GP12 Damage to Property and the Environment	284	322	350	345	337	351	342	342	373	356
GP13 Public Order and Social Code Offences	88	128	110	118	98	97	91	105	109	107
GP14 Road and Traffic Offences	122	118	129	122	127	127	121	118	119	121
GP15 Offences re Gov, Justice and Organ Crime	145	152	128	152	204	189	171	170	166	158
GP16 Offences Not Elsewhere Classified	244	351	432	353	320	379	272	324	321	410

Prison Overcrowding Response Group Proposals:

Proposal	Timeframe	Legislation required Y/N
1. To reduce existing sentences of imprisonment for all prisoners (e.g. by 30 days across the board) by way of order by the Minister for Justice.	Short term – less than one month to inform Government colleagues and make the order	N
2. To approve in principle the development of a process through which those convicted of sexual offences may be released on conditional supervised Temporary Release in conjunction with electronic monitoring, subject to the outcome of the work of the subgroup on electronic monitoring.	Short term – up to 3 months (if not dependent on the introduction of EM, which would require procurement etc. and would bring it into 2025)	N
3. To develop new structured temporary release scheme for women serving sentences of 12 months or less.	Short term – 3-6 months	N
4. Review the processes and eligibility for the Drugs Treatment Court to increase catchment of individuals sentenced to low-level drugs-related crimes.	Short to medium term – review would take up to 6 months	N
5. Recognising their constitutional independence, to engage with the Judiciary and encourage the use of the community service orders rather than the imposition of sentences of 12 months or less.	Short term – the engagement could take place in a matter of weeks	N
6. Establish a specialised Probation Service Supervised Temporary Release response which can be expanded and scaled in response to the growing pressures on the Irish Prison Service resulting from increasing prisoner numbers.	Medium term – would require additional staffing for the Probation Service	N
7. Purchase Rapid Deployment Cells	Medium term – could be done more quickly if DPENDPR could be persuaded to support it.	N

<p>8. To consider all possible options for Temporary Release for medium to high-risk sentenced prisoners to alleviate the risk of harm within prisons due to overcrowding, having regard to the requirements of the Criminal Justice (Temporary Release of Prisoners) Act 2003 and other risk and protective factors on a case-by-case basis. This will include active consideration of:</p> <ul style="list-style-type: none"> • prisoners convicted of assault on Garda / Peace Officer, prolific burglary and other serious offences; • prisoners who have previous but not current protection and/or safety orders where no evidence of breach of such orders is known; and • prisoners who have future court dates for a District Court where there is no direction to detain until the court date. 	<p>Short term – 1-3 months</p>	<p>N</p>
<p>9. To take steps to review the potential to grant Temporary Release to people convicted of a sex offence. The IPS propose to categorise people convicted of sexual offences to consider for early release, in order:</p> <ul style="list-style-type: none"> • Those for whom the sexual offence is historic, and not related to their current sentence; • Older, medically dependent people with a sexual offence with active engagement with the SORAM process; and • Those convicted of lesser grade sexual offences. 	<p>Short term – 1-3 months</p>	<p>N</p>
<p>14. To review and amend the current delegated authority to the Irish Prison Service for the granting of temporary release and transfer to an open centre to include prisoners serving sentences of 8 years plus. This will facilitate better utilisation of open centre spaces and provide for the judicious granting of temporary release to those serving longer sentences but who have stabilised within custody, thus presenting a lower risk in terms of reoffending.</p>	<p>Short term – up to 3 months</p>	<p>N</p>
<p>10. To amend the Criminal Justice (Community Service) Act 1983 and the Criminal Justice (Community Service) (Amendment) Act 2011, as a legislative priority, to provide that the limit of community service hours be increased to up to 480 hours, and the requirement for the judiciary to consider community service be mandatory where considering</p>	<p>Medium term - depends on legislative priorities but unlikely in 2024</p>	<p>Y</p>

a custodial sentence of up to 2 years or less.		
11. To repeal enactments providing for the ineligibility of those serving presumptive minimum sentences for Temporary Release, and parole.	Medium term - depends on legislative priorities but unlikely in 2024	Y
12. To prioritise progressing the Criminal Justice (Community Sanctions) Bill 2014, retaining the emphasis placed on prison as a sanction of last resort.	Medium term - depends on legislative priorities but unlikely in 2024	Y
13. To amend legislation that governs post-release supervision so that Court-ordered post-release supervision by the Probation Service can commence from the first date of Reviewable Temporary Release rather than the remission date.	Medium term - depends on legislative priorities but unlikely in 2024	Y
14. To reduce the number of prisoners remanded to custody instead of remanded on bail. This includes: <ul style="list-style-type: none"> reducing the number of prisoners having to be committed to prison prior to taking up bail by requiring the Courts Service to make provision to discharge bail at the Court, negating the need to process a prisoner through the committal process in a prison only to be released hours/days later when the cash bail is presented. 	Medium term - not clear whether legislation is required but there is complexity to it	Unknown at present
15. That the Department of Justice commence engagements with the Department of Defence to discuss whether it is possible to secure access to the Curragh Military Prison for the Irish Prison Service which could provide up to 100 additional prison spaces.	Medium term - not clear whether legislation is required but there is complexity to it	Unknown at present



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