

# The penal system: reducing reoffending?

The purpose of this briefing is to consider the issue of reoffending and the ways in which it can be reduced.



While many people focus on the role of the penal system in reducing the rate of reoffending – also known as recidivism – it is also important to recognise that efforts to reduce reoffending do not rest with the penal system alone, far less with prisons. Indeed, it can and has been often been argued both (1) that even a good prison regime can only have limited influence over the lives of those who have left prison and (2) that more often the continuing effects of imprisonment are negative, for example as a result of problems of institutionalisation (discussed below) or the disruption to family relationships, work possibilities and housing that imprisonment causes.

Reducing reoffending across Scotland is a key national objective of the Scottish Government, which involves the whole of the criminal justice system (see [SCCJR 'Scottish criminal justice system'](#)) and many other agencies like health services, local authorities, employers and so on.

Therefore, is it important to not only evaluate the role of the prison service in rehabilitating individuals and reducing reoffending, but also to consider the role of other parts of the criminal justice system, including criminal justice social work (CJSW), other agencies, and, indeed, the individual offenders themselves. But it is just as important to consider the role of broader public services (like health, housing and benefits services) and of wider socio-economic conditions (for example, in relation to the labour market). By way of illustration, it may be that these wider

factors might explain why Nordic countries have lower reoffending rates, even although these lower rates are often attributed to prison regimes that are considered to be more progressive.

The nature of prison regimes in Norway is explored in the following YouTube clip which follows an American prison superintendent as he visits a Norwegian prison:  
<https://www.youtube.com/watch?v=2g56susrNQY>

### How big a problem is reoffending?

The Scottish Government releases an annual report on reconviction rates in Scotland and compares reconviction rates by the type of crime, type of sentence, sentence length and other measures – see: [Reconviction Rates in Scotland 2012-13 Offender Cohort](#). For those individuals who completed their prison sentence between April 2012 and March 2013, the report finds:

- Those offenders released from a custodial sentence in the 2012-13 cohort had a higher reconviction rate and a higher average number of reconvictions than offenders given any other type of sentence, apart from the Drug Treatment and Testing Order (DTTO) (see [SCCJR 'Penal system – community sentences and financial penalties'](#)).
- Offenders who were released from a custodial sentence of three months or less have a higher reconviction rate and average number of reconvictions compared to those released from longer custodial sentences.
  - The reconviction rate of those serving a sentence of three months or less was **60.2%**
  - Sentences of three months to six months: **51.5%**
  - Sentences of six months to two years: **39.1%**
  - Sentences of two years to four years: **26%**
  - Sentences of more than four years: **10.1%**
- Offenders who commit relatively low-level crimes but in high volumes are more likely to be reconvicted, and these offenders are more likely to get short custodial sentences. In contrast, longer custodial sentences are usually given to offenders who commit more serious crimes, but these types of crimes are much more rare, and the people responsible for them are less likely to be reconvicted.
- Conviction history is a strong predictor for the likelihood of reconviction, as reconviction rates increase with increasing numbers of previous convictions. Offenders with more than 10 previous convictions in the past 10 years have the

highest reconviction rates, whereas offenders with no previous convictions in the past 10 years have the lowest reconviction rates.

However, it is important to note that many criminologists have reservations about the value and reliability of reconviction rates; and especially about using them to compare the supposed 'effectiveness' of different sentences, or of different penal systems. One problem is that while offending itself is an event, conviction is the result of a series of social process (witnessing, reporting, detecting, prosecuting and then convicting an offender) which can import different biases. Only a small number of offences actually lead to convictions – and people who are more socially marginalised (for example, as a result of social class or ethnicity) are more likely to be convicted. So *reconviction* is not a straightforward measure of *reoffending*.

Secondly, some of the apparent differences in reconviction outcomes of different sentences disappear when we control for differences between the people receiving different sentences. This creates a 'selection effect' – which means that sentences which are given to people who are already less likely to reoffend appear to produce better outcomes. When we control for these differences and eliminate the selection effect, it seems that community sentences fare better than prison sentences in terms of reconviction – but only slightly better.

Thirdly, when we make comparisons across countries (or even within a single country and over time), it is important to be careful about how reconviction is defined. Some countries measure reconviction as re-arrest (which doesn't take account of the fact that not all arrests lead to conviction), some measure reconviction (for any type of conviction), some count only re-imprisonment (excluding cases that result in fines or community sentences). Different countries also count reconviction over different timescales from 6 months to 5 years; obviously a shorter timescale produces a lower reconviction rate and vice versa. Equally, just as governments sometimes change the meaning of administrative statistics about the poverty line or about health outcomes, so they sometimes alter the meanings of reconviction statistics, complicating assessments of the performance of the penal system. And remember – as we have stressed above – reconviction rates might just as much reflect labour market conditions or the availability of benefits.

For a further discussion of reconviction rates and the problems of comparison, see: <http://www.sccjr.ac.uk/publications/reducing-reoffending-in-scotland/>

## Role of prisons

Individuals who repeatedly offend often have a range of issues, for example, having had problems with education, literacy, unemployment, housing, addictions, health and mental health problems and family difficulties. (See [SCCJR 'Who's in prison? Snapshot of Scotland's prison population'](#) for further information on this).

Audit Scotland, in its report [An Overview of Scotland's Criminal Justice System](#), explains that services to address these needs are delivered both in prisons and in the community by a range of public bodies and voluntary organisations. The Scottish Prison Service offers a range of programmes to meet the diverse needs of people in prison and address their offending behaviour. Programmes include treatment for addictions, programmed interventions to address offending behaviour, educational and vocational courses, and support on release. However, the report points out that most of these services are provided for long-term prisoners (those sentenced to more than four years). However, there is no legal requirement for the Scottish Prison Service to provide support to most short-term prisoners (those sentenced to four years or less), who form the majority of the prison population.

The Scottish Prison Service has a key performance indicator set by the Scottish Government for the number of 'offender development hours' that prisoners spend on activities like education, life skills, vocational training, work placements, health promotion and physical education. These are sometimes called 'purposeful activities'. The Scottish Parliament's Justice Committee recently conducted an Inquiry into Purposeful Activity in Prisons which you can find out about here: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/57752.aspx>

In 2009/10, the Scottish Prison Service delivered 2.7 million offender development hours, or around 56 minutes of development activities per prisoner per day. However, the amount of time prisoners spend on these activities varies among prisons and prisoners depending on the availability of staff, the level of overcrowding and the assessed needs and risks of individual prisoners (See [SCCJR 'Prison life'](#) for further information on this).

Research that has looked into the experience of those serving short prison sentences has highlighted the ineffectiveness of short sentences in relation to rehabilitation. SCCJR Research published in 2010 – [Persistent Punishment: User](#)

[Views of Short Prison Sentences](#) – used evidence from interviews conducted with individuals in Scotland who had been sentenced to either imprisonment or a community sentence. 22 of those interviewed were serving a short prison sentence of six months or less. The report found:

- Most of the prisoners interviewed had only ever been in prison for a few months at a time (only three mentioned having experience of long-term sentences), and the repetitive routine and minimally stimulating environment of prison came to be familiar.
- Prisoners described symptoms of **institutionalisation** more commonly associated with those incarcerated for long periods. Many reported being locked in cells for more than 20 hours per day, being let out briefly for meals and recreation. Outdoor recreation consisted of a small tarmac square, which, according to staff, was used by prisoners to pace slowly in a circle.
- Offender programmes reportedly were designed around a 12-week model, excluding those from sentences of six months or less for participating. Some prisoners had jobs, typically serving or preparing meals.
- Most prisoners reported participating in some kind of education or training courses during their sentences, with some having made substantial progress towards college and university degrees. This provided these individuals with enhanced CVs and progress on life goals. But these activities only amounted to one or two hours out of their cell each week.

**Institutionalisation:** Someone who has become institutionalised has usually lived for a long time in a prison (or a mental health institution or similar environment) and now cannot easily live outside.

## Through-care

As already noted, efforts to tackle the problem of reoffending amongst prisoners involve many parts of the criminal justice system as well as other public, private and third-sector bodies. The relationship between all these institutions is complex and continually developing. A report published by the SCCJR in 2012 – [The Elements of Effective Through-Care – Scottish Review](#) – reviewed the available evidence in relation to effective practice in ‘through-care provision’. Through-care provision aims to reduce the likelihood of future offending by addressing the needs of prisoners.

- The report states, “*evidence suggests that accommodation problems, health and addiction issues and/or disrupted family relationships can increase the risk of reoffending ... Prisoners may have come into the prison system with pre-existing problems (i.e. mental health problems) which, if not addressed, can be exacerbated by the experience of imprisonment, creating additional problems at the point of release*”.
- The report draws on previous research by the [Social Exclusion Unit \(2002\)](#) which highlighted the importance of addressing the practical needs of prisoners in several key areas, including: provision of accommodation, timely access to welfare benefits and health-related support (including interventions for drug and/or alcohol problems and mental health issues).
- Prisoners sentenced to four years or longer are provided with through-care services by local authorities’ criminal justice social work departments (see [SCCJR ‘Scottish criminal justice system’](#)). This service begins at the start of a prisoner’s sentence and is managed via the Scottish Prison Service’s Integrated Case Management (ICM) process.
- The majority of prisoners who receive sentences of less than four years are not subject to this programme. These individuals can request assistance while in custody or within 12 months of their release, but few choose to do so.
- Prisoners on lengthy sentences prepare for release through courses and programmes in prison, and through community-based social workers, engagement with agencies concerned with housing, employment, health and other services, as well as placement in the community, periods in open conditions and home leaves.
- The through-care process starts at the point when the custodial sentence is imposed. During an individual’s time in custody, the criminal justice social worker will contribute to the sentence planning process by sharing information relating to the assessment of risk and identifying issues that may influence the resettlement prospects of the prisoner.
- The voluntary sector has a crucial role in providing through-care. The sector provides a wide range of support addressing physical and mental well-being, housing and accommodation, drug and alcohol problems, literacy, employability, relationships with family, peers and communities, finance and budgeting, independent living.

The [report](#) identifies a number of challenges in providing this through-care. These include:

- Friction between public bodies, such as Scottish Prison Service and CJSW, and voluntary organisations providing services for offenders.
- The ‘release gap’, whereby the offender is not supported immediately upon leaving prison, which can result in much of the work undertaken in prison being undone.
- Prisoners finding it difficult accessing housing support and advice while in prison. Accommodation is generally identified as the biggest problem facing prisoners on release. The report found that “*while it was noted that local authorities have a statutory requirement to provide housing, there was a real frustration among community workers that released prisoners often did not get any support until the day of release when they presented themselves at housing offices to obtain accommodation.*”

Further points can be found in the [report](#).

## Early release

Research on Home Detention Curfew (HDC) and Open Prison in Scotland, commissioned by the Scottish Government – [Evaluating the Effectiveness of Home Detention Curfew and Open Prison in Scotland](#) – evaluated two forms of ‘conditional liberty’ in Scotland – home detention curfew (HDC) and open prison.

As the report states, schemes of conditional liberty are intended to provide a gradual transition from prison to community, thus **facilitating a person’s reintegration** into the community. HDC came into use in 2006 and allows prisoners, mainly those on shorter sentences, to serve up to a quarter of their sentence on licence. On a HDC licence, prisoners live at home but must wear an electronically monitored tag and keep to curfew; in open prison, prisoners live at the prison but can be granted home leave and participate in activities that prepare them for their release.

Some key findings from the report include:

- People on HDC are predominantly male, on shorter sentences (63% were serving sentences of between six months and two years), and have a less serious offending profile compared to the overall prison population.
- The primary function of HDC appears to be managing the pressure of high prison populations. The reintegrative aims of HDC may be limited as, aside from the

monitoring of the tag itself, there are almost no mechanisms or services in place to support or supervise prisoners.

- It costs £126 per week to keep someone on HDC, compared to a notional cost of £610 per week to keep them in prison.
- Prisoners and staff strongly felt that prison made it easier for prisoners to transition to life back in their home communities.
- The average cost per prisoner place on the Open Estate when it is operating at full capacity (425 places) is £19,319; this is much cheaper than the average cost of standard prison place (£31,703). With no redeployment of staff and only about half its places filled, the cost of an open prison place is £31,458.

*Recalls from an HDC Licence* (when the licence is revoked and the offender returned to prison:

- The most common reason for being recalled is for failure to comply with the technical conditions of the curfew rather than committing new crimes while on HDC. Bring out of curfew for more than six hours (38% of all recalls) and breach of licence conditions (24%) accounted for most recall activity. Offending while on licence appears only rarely to be the cause of recall (7% for a new warrant served)

*Purpose of HDC*

- Respondents in the research mainly perceived the purpose of HDC as managing prison population pressure. Some expressed the belief or hope that HDC could also support reintegration of prisoners into their communities, often because of a belief that being in the community rather than prison was a facilitator in itself of reintegration.

*Success and Effectiveness of Open Prison*

- The generally low levels of absconds is important in showing that most people stick to the conditions of their release. . Prisoners saw home leave as the major attraction and incentive of moving on to open prison. Prisoners felt that the programmes and activities that might be useful to them were not always available, and staff felt the work of open prison was not being full recognised or adequately resourced.
- Both prisoners and staff respondents felt that the addressing of individual needs that would support reintegration was sometimes put second to needs of the prison, such as getting prison jobs done or fulfilling centrally-set goals for programme participation.

A report conducted by the UK Government into the HDC programme in England and Wales – [The Effect of Home Detention Curfew on Recidivism](#) – sought to specifically address the issue of how the use of HDC impacted on recidivism.

The report found that:

- Specific offence types, number of previous offences and previous breaches appeared to be important predictors of HDC non-completion (i.e. recalls to prison).
  - Offenders whose current conviction was either burglary or robbery were twice as likely to be recalled compared to prisoners who had committed other types of offences.
  - 13% of prisoners released on HDC had previously breached licence conditions. 23% of offenders who were recalled from HDC had previous breaches compared to only 12% of those who were not recalled.
  - HDC released prisoners who were recalled had committed almost twice as many crimes in the past than those who were not returned to prison.
- The conclusion of the report based on an analysis of the results is that HDC offenders were at least no more likely to engage in criminal behaviour after release when compared to offenders with similar characteristics who were not eligible for early release on HDC.
- However, the report cautions against using the findings to extend the programme to other offenders who would, at the time of the research, not qualify for the programme, as the analysis did not take into account whether these results would be the same for dissimilar groups.

### ‘Desistance’

The Scottish Government report [Reconviction Rates in Scotland 2012-13 Offender Cohort](#) states that, while the reconviction rate is useful for tracking overall offender recidivism, but that it *“may not be sensitive enough to detect individual-level progress as the result of interventions and programmes in the criminal justice system. Such programmes may have been successful in reducing the number of reconvictions, but not complete **desistance** from crime, by the offender”* (emphasis added).

So what is desistance? There is no straightforward definition of desistance, but in essence it means *“ceasing and refraining from offending”*. It is a body of research which tries to understand how and why people stop offending -- and keep out of trouble. Therefore, an examination of desistance is crucial in order to understand

why ex-prisoners continue to offend upon leaving prison, and how the problem of reoffending can be improved.

The same paper outlines three broad theoretical perspectives that seek to explain desistance: maturational reform theories, social bond theories and narrative theories.

### ***Maturational reform theories***

Maturational reform theories, also known as the 'age crime curve' theories, have the longest history and are based on links between age and certain criminal behaviours. Essentially, these theories suggest that changes in offending rates reflect physical, mental and biological changes that accompany ageing.

### ***Social bond theories***

Social bond theories assert that there is also an important link between desistance and the importance of ties to family, employment, education or other social institutions. . 'Social bond theorists' point out that key life events such as marriage or employment are likely to be linked with desistance. Research into this area suggests that what matters is not just so much getting a job or getting into a new relationship, but rather what these changes mean to offenders; changes in behaviour are likely to be linked to the strength and quality of these ties. (See [SCCJR 'Theories and causes of crime'](#) for discussion on social bond theories and their application to not becoming involved in offending in the first place).

### ***Narrative theories***

Narrative theories combine individual and structural factors (taking account of both getting older and developing new social ties) in their explanations of the desistance process. These theories are increasingly being developed from the perspective of ex-offenders themselves, drawing on their personal stories of desistance processes. These theories tend to stress the significance of changes in the person's sense of self and identity, reflected in changing motivations, greater concern for others and more consideration of the future.

This short report summarises recent research on desistance:

<http://www.iriss.org.uk/resources/how-and-why-people-stop-offending-discovering-desistance>

## The Road From Crime – Allan Weaver

Click [here](#) to play the documentary 'A Road From Crime', presented by Allan Weaver, an ex-offender and now a criminal justice social work manager. In it, he explores the lives of individuals who have experienced imprisonment as he seeks to understand what enables some people to achieve desistance from crime while others continue to reoffend.



As well as watching the film, you will find many resources about desistance on the related website: <http://blogs.iriss.org.uk/discoveringdesistance/>

## Imprisonment and desistance

[What Works to Reduce Reoffending: A Summary of the Evidence](#) – produced for the Scottish Government 2015-- aimed to review available about how individuals can be supported to desist from offending. The findings are drawn from academic literature (read the review to identify sources). The review describes the impact of factors such as age and gender and social ties (as discussed above) before examining different forms of processing by the criminal justice system and their different impacts on rates of reoffending. Findings include:

### **Imprisonment**

- Incapacitation effects: evidence on the impact of incapacitation effects (preventing reoffending by removing an offender from society) is mixed, with some research from England and Wales suggesting there is no reduction in length of criminal careers following short-term imprisonment when compared to community sentences. The authors of this report suggested that offending was postponed during imprisonment rather than prevented.
- Deterrent effect: Imprisonment may also reduce reoffending if the prospect of returning provides a deterrent effect. Evidence for this is also mixed. Some studies have found that prison can deter some individuals from committing further offences, especially those with stable jobs or relationships. That said, other studies have found no impact of incarceration on future reoffending. Researchers

contend that it cannot be concluded that imprisonment can reduce reoffending, and in fact may increase the likelihood of offending.

- Longer prison sentences: Considering a number of studies, it appears that there is little evidence that increasing the length of prison sentences for a particular offence would lead to reductions in offending.
- Linking the impact of imprisonment with wider evidence on explanations of desistance, the review notes: *“It is possible that, rather than reducing reoffending, imprisonment can increase long-term reoffending by weakening social bonds and decreasing job stability. Reoffending may also be increased by experiences of victimisation in prison.”*

See [SCCJR ‘Penal system – community sentences and financial penalties’](#) for an analysis of the effectiveness of short-term imprisonment compared to community disposals.

## Conclusion

In summary, while the prison system has an important role to play in attempting to rehabilitate offenders and reduce overall reoffending rates, these efforts must be considered within the context of entire criminal justice system.

Reducing reoffending is a key objective of the criminal justice system, and programmes that attempt to rehabilitate offenders are provided by a diverse range of voluntary and private organisations, which work in conjunction with public-sector organisations including the prison service and local authority CJSW services. Effective implementation of rehabilitation programmes depends on close co-operation between these various organisations; tensions in this relationship lead to ineffective provision of services. But even getting the whole criminal justice system to work more effectively is only part of working to reduce reoffending – wider public services and socio-economic conditions are at least as important.

Understanding desistance from criminal activity can help us to think more critically and creatively about what might help reduce reoffending. Available evidence highlights the significance of individual and societal factors in helping an individual to turn away from a life dominated by crime. Considering the factors that help individuals desist from crime also helps us to consider the ways in which imprisonment, rather than serving to cease offending, in fact might often makes desistance more difficult, possibly reinforcing an offender’s criminality.

Think about this: Desistance seems to require developing maturity, positive social ties and a positive sense of identity. Imprisonment may tend to delay maturation, damage social ties and reinforce a negative identity. For these reasons, most desistance scholars suggest we should use imprisonment very sparingly.

### Further reading

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