

Independent Advisory Panel on Deaths in Custody – Written evidence (JCS0040)

1. The role of the Independent Advisory Panel on Deaths in Custody (IAPDC) is to advise Ministers and officials on how they can meet their human rights obligations, prevent deaths and keep those under the care of the state safe.¹
2. The IAPDC welcomes the opportunity to submit evidence to the Committee's inquiry on community sentences. For our response we have provided information relevant to our single purpose of preventing all deaths, natural and self-inflicted, in custody.

Submission summary

- People in prison are at greater risk of death from suicide or substance misuse compared to people in the general population. Where appropriate, community sentences can offer safer alternatives to custody.
- Community Sentences with Treatment Requirements (CSTRs) are a suitable alternative to short custodial sentences for people with relevant treatment needs. Prison is particularly disruptive for women and more should be managed through effective community sentences where appropriate.
- Magistrates need to be clearly informed about the availability of CSTRs in their court area and the appropriate diversion from custody. Community sentences with treatment requirements should be made universally available across the country and rolled out according to ambitious targets. This can save lives.

Risk to life in prison

3. People in prison are more likely to die by suicide compared to people living in the community. While key risk factors such as mental ill-health, past self-harm, traumatic life experiences and a background of disadvantage puts many people with convictions at a higher risk of suicide before they enter prison, features unique to the prison environment – such as social and physical isolation, uncertainty about sentencing, inconsistent regime and greater likelihood of exposure to suicidal behaviour – can heighten this risk.
4. Figures published by the Office for National Statistics (ONS) in January 2023 show the risk of male prisoners dying by suicide was 3.9 times higher than the general male population between 2008 and 2019.² This risk

¹ Independent Advisory Panel on Deaths in Custody, About the IAPDC. Available at: <https://www.iapondeathsincustody.org/about-us-1>

remains high even after release from prison – a 2019 Samaritans report found that men were eight times and women 36 times more likely to die by suicide in the first year after their release from prison compared to the general population.³

5. Early days in custody are a moment of increased risk. In the last five years more than one in five (21%) self-inflicted deaths occurred in the first 30 days of arrival in prison, and over half (51%) of these deaths were in the first week.⁴ Additionally, 22% of self-harm incidents occurred within the first 30 days in custody, for both male and female prisoners.⁵
6. Prison can also create and exacerbate issues with substance misuse which can lead to the loss of life⁶. ONS figures also show that there were 145 drug-related deaths in prison between 2005-2019 and that the risk of male prisoners dying from drug-related causes was higher than the general male population between 2016 and 2019. Dame Carol Black, in her Independent Review of Drugs highlighted how short prison sentences, where the median time served in prison is six weeks, increased the risks of drug misuse as prisoners are provided with little sustained time in treatment.⁷
7. Assigning short-term sentences to people who could be managed in the community therefore increases the risk to life. The IAPDC have repeatedly raised concerns about this increased risk and the need for universal availability of community-based options for sentencers, with treatment requirements, as needed. This has included a range of correspondence with ministers and key decision makers, including to the Chief Secretary to the Treasury ahead of the 2021 Spending Review⁸, the Minister of State for Crime and Policing in 2020⁹ and to the Secretary of State for Justice in 2019¹⁰.

² ONS, Drug-related deaths and suicide in prison custody in England and Wales: 2008 to 2019. Available at: [Drug-related deaths and suicide in prison custody in England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/people-in-the-uk/deaths-and-suicides/articles/drug-related-deaths-and-suicide-in-prison-custody-in-england-and-wales/2020-08-27).

³ Samaritans, Unlocking the evidence: understanding suicides in prisons. December 2019. Available at: [Samaritans PrisonsDataReport 2019 Final.pdf](https://www.samaritans.org/what-we-do/research-and-evidence/samaritans-prisons-data-report-2019-final.pdf)

⁴ HMPPS, Safety in custody: quarterly update to June 2022. Available at: [Safety in custody: quarterly update to June 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/108423/safety-in-custody-quarterly-update-to-june-2022.pdf)

⁵ Safety in Custody Statistics, England and Wales: Deaths in Prison Custody to March 2023 Assaults and Self-harm to December 2022. Available at: [Safety in Custody Statistics, England and Wales: Deaths in Prison Custody to March 2023 Assaults and Self-harm to December 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/108423/safety-in-custody-statistics-england-and-wales-deaths-in-prison-custody-to-march-2023-assaults-and-self-harm-to-december-2022.pdf)

⁶ IAPDC Protecting lives: a cross-system approach to addressing alcohol and drug-related deaths within the criminal justice system. January 2022. Available at: [IAPDC+RCGP+-+substance+misuse-related+deaths+in+the+criminal+justice+system+-+final.pdf \(squarespace.com\)](https://www.squarespace.com/files/media/documents/iapdc-rcgp-substance-misuse-related-deaths-in-the-criminal-justice-system-final.pdf)

⁷ Home Office Review of Drugs: Phase one report 2020. Available at: <https://www.gov.uk/government/publications/review-of-drugs-phase-one-report>

⁸ IAPDC. Letter to Chief Secretary to the Treasury. August 2021 Available at: [Date \(squarespace.com\)](https://www.squarespace.com/files/media/documents/iapdc-letter-to-chief-secretary-to-the-treasury-august-2021.pdf)

⁹ IAPDC letter to Minister for Crime and Policing August 2020. Available at: <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/5f44ca18ee7eba3dd4689778/1598343707375/20200824+Juliet+Lyon+to+Kit+Malthouse+MP.pdf>

¹⁰ IAPDC letter to Secretary of State for Justice. June 2019. Available at: [Microsoft Word - MCDC IAP 20190627 - IAPMA to SoS survey electronic.doc \(squarespace.com\)](https://www.squarespace.com/files/media/documents/iapdc-letter-to-secretary-of-state-for-justice-june-2019.doc)

Sentencers' attitudes to community sentences

8. Community sentences present an alternative to custody, including for offenders with certain treatment needs. CSTRs were introduced in 2005 as a sentencing option with three available requirements: the alcohol treatment requirement (ATR), the drug rehabilitation requirement (DRR) and the mental health treatment requirement (MHTR). CSTRs seek to reduce reoffending by providing effective, treatment-based alternatives to short custodial sentences, where appropriate, and on the day of sentencing wherever possible. The take-up of treatment requirements has, however, been slow.
9. In 2019 the IAPDC undertook a joint survey with the Magistrates Association to collect the views of magistrates on sentencing powers and practice.¹¹ This focused on defendants coming before the court with mental health conditions, learning disabilities and other needs, and where community sentences may be an alternative to custody. The survey was prompted by concerns about unmet mental health needs expressed at the time by, amongst others, the National Audit Office¹², the Prisons and Probation Ombudsman¹³ and respondents to IAPDC wide-scale consultations with men and women in prison.¹⁴
10. Magistrates were familiar with DRRs and ATRs and often included them as part of a community sentence, but few had ever ordered an MHTR. Reasons for not doing so included lack of awareness about the orders and, even when they had knowledge of the treatment, being told it was unavailable in their area. Magistrates said that, on occasion, lack of community facilities meant that they had no alternative other than to send a person to prison if they were concerned about the safety of the individual or that of others. One magistrate told the Panel: *"Services for defendants with mental health issues are badly needed. It's quite clear that some who come before the court have a mental health issue that needs health input rather than imprisonment."*
11. Magistrates were keen to attach treatment requirements to community sentences where appropriate but were prevented from doing so due to lack of CSTR supervision availability and information. Proper availability of local treatment services, improved communication and information sharing, and effective partnerships between health, social care and justice, can put this right and avoid sentencers being faced with the unenviable prospect of

¹¹ IAPDC Effective community sentences and the role treatment requirements can play in preventing deaths in custody. June 2019

¹² NAO Mental health in prisons, June 2017. Available at: <https://www.nao.org.uk/press-release/mental-health-in-prisons/>

¹³ PPO Learning from PPO investigations Prisoner mental health, January 2016. Available at: [Learning from PPO Investigations - Prisoner mental health](#)

¹⁴ IAPDC Keeping Safe - preventing suicide and self-harm in custody, December 2017. Available at: <http://iapdeathsincustody.independent.gov.uk/wp-content/uploads/2017/12/Keeping-Safe-FINAL-Dec-2017.pdf>

having to sentence someone without recourse to the most effective treatment option. This would save lives.

The availability of Community Sentence Treatment Requirements

12. In our survey, magistrates told us about the lack of availability of treatment requirements in their area. In 2021 the Centre for Justice Innovation also remarked on the low use of CSTRs due to the lack of treatment provision for offenders in the community, the impact of court and probation reforms, and a lack of judicial confidence in and awareness of CSTRs.¹⁵
13. The Ministry of Justice's *A Smarter Approach to Sentencing* White Paper in September 2021 aimed to "achieve 50% coverage of mental health provision by 2023/24" and "to go further with drug and alcohol treatment too." We welcome the news that availability of the MHTR has achieved 50% coverage and remains on track for 100% coverage in England by mid-2024. Ambitious rollout must continue at pace.
14. This also needs to transfer into take-up. The most recent quarterly statistics, from October to December 2022, show that take-up of the CSTR still remains low, with alcohol treatment, drug treatment and mental health treatment requirements making up only 4%, 4% and 2% of all community and suspended sentence orders respectively.
15. Adequate and sustained funding should be provided across the range of treatment options so that sentences in which the judiciary can have confidence in continue to be developed. The IAPDC's 2022 report on addressing alcohol and drug-related deaths in custody noted that while funding was available for CSTRs, it also needed to be extended to additional measures such as carrying out adequate drug testing for those on DRRs.¹⁶ Waiting times between court sentence and treatment starting need to be improved, and courts need to be informed about the availability of treatment in the community and provided with updates on treatment outcomes and evaluation. The report called for a whole-system approach to encourage services to work collaboratively to identify the most efficient method of treatment, including the need for sentences which provide a variety of support.

Use of custody for women with convictions

16. In March 2017, the IAPDC undertook a rapid information gathering exercise with stakeholders and women in prison for their views on how best to prevent suicide and self-harm and keep women safe. Respondents highlighted that fewer women should be given custodial sentences, and

¹⁵ Centre for Justice Innovation, *Delivering a smarter approach: Community Sentence Treatment Requirements*, 2021. Available at: [cstr.pdf \(justiceinnovation.org\)](https://www.justiceinnovation.org/cstr.pdf)

¹⁶ IAPDC. *Protecting lives: a cross-system approach to addressing alcohol and drug-related deaths within the criminal justice system*. January 2022. Available at: [IAPDC+RCGP+-+substance+misuse-related+deaths+in+the+criminal+justice+system+-+final.pdf \(squarespace.com\)](https://www.iapdc.org.uk/wp-content/uploads/2022/01/IAPDC+RCGP+-+substance+misuse-related+deaths+in+the+criminal+justice+system+-+final.pdf)

that insufficient attention had been paid to preventative work and effective community sentences which would avoid separation from family, the losses sustained by imprisonment and the uphill battle on release to find somewhere safe to live and a means of earning a living – all of which increase the risk of suicide and self-harm.¹⁷

17. Evidence submitted to the All Party Parliamentary Group (APPG) on Women in the Penal System 2022 inquiry into women's health and well-being in prison¹⁸ by, among others, HM's Chief Inspector of Prisons, Clinks, the Prisons and Probation Ombudsman and the Prison Reform Trust, determined that prisons are unable to address the physical and mental health needs of women and in fact exacerbate them. Imprisonment compounds the victimisation of women, the majority of whom have experienced violence or abuse prior to prison; and that the prison system as a whole is designed around the needs of a male majority. A recent report by the Independent Monitoring Boards¹⁹ made it clear that for women with severe mental health issues, prison is not an appropriate environment. Some women with mental health needs were being held in segregation or on general prison wings without adequate treatment and support, and that inpatient and specialist units in women's prisons, where they existed, were often full due to high levels of mental health need.
18. Respondents to the APPG inquiry considered that most women in prison do not need to be there: over half of the receptions into prison are of women on remand and a third are of women serving short sentences, and that the prison environment is damaging to women's mental health. Women tend to commit less serious offences than men and so are more likely to be serving a short prison sentence.²⁰ Sixty-three per cent of prison sentences started by women in 2021 were for less than 12 months, compared with 48% for men.²¹
19. The Ministry of Justice's Female Offenders Strategy, published in June 2018, outlined an ambition to have fewer women in custody (especially on short-term sentences) and a greater proportion of women managed in the community as one of three key priorities.²² The strategy highlighted the use of CSTRs as a route to direct women away from custodial settings, citing

¹⁷ IAPDC, Preventing the Deaths of Women in Prison – initial results of a rapid information gathering exercise by the Independent Advisory Panel on Deaths in Custody, March 2017. Available at: [IAP+rapid+evidence+collection+-+v0.3.pdf \(squarespace.com\)](#)

¹⁸ All Party Parliamentary Group on Women in the Penal System Inquiry into women's health and well-being in prisons Briefing one. April 2022. Available at: [APPG-womens-health-and-well-being-FINAL.pdf \(howardleague.org\)](#)

¹⁹ Independent Monitoring Boards, Mental health concerns in women's prisons May 2023. Available at: [women's mh briefing](#)

²⁰ Prison Reform Trust, Why focus on reducing women's imprisonment? August 2022. Available at: [Why-women-2022-briefing.pdf \(prisonreformtrust.org.uk\)](#)

²¹ Ministry of Justice, Offender management statistics. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071781/Receptions_Q4_2021.ods

²² Ministry of Justice, 'Female Offender Strategy', June 2018. Available at: [Female Offender Strategy \(publishing.service.gov.uk\)](#)

their links to reductions in reoffending. The strategy's 2023 delivery plan highlights that the female prison population is falling – there were 4,123 women behind bars as of June 2012 compared to 3,253 in June 2022 – and restated an aim to provide evidence-based community sentencing options, including through the trialling of Problem Solving Courts.²³ It is important these commitments translate into action.

20. The argument in favour of community sentences, which can assist women in providing support for addictions, gaining employment skills, receiving mental health treatment and/or finding safe housing for themselves and their children, is clear. Short sentences are damaging and highly disruptive to continuity of care, family life, work and housing. Investment in preventative work and alternatives that command the confidence of the courts is vital.
21. The IAPDC would welcome the opportunity to provide further information or oral evidence if required by the Committee.

June 2023

²³ Ministry of Justice Female Offender Strategy Delivery Plan 2022–25, January 2023. Available at: [Female Offender Strategy Delivery Plan 2022-25 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/114112/fosdp-2022-25.pdf)