



National Audit Office

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## **Report**

by the Comptroller  
and Auditor General

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# The criminal justice system: landscape review

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National Audit Office

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# The criminal justice system: landscape review

Report by the Comptroller and Auditor General

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Amyas Morse  
Comptroller and Auditor General  
National Audit Office

4 March 2014

This landscape review provides an overview of the operation of the criminal justice system (the System) in England and Wales, considering the main challenges to an efficient and effective System and whether current reforms address the issues identified.

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This report can be found on the National Audit Office website at [www.nao.org.uk/2014-criminal-justice](http://www.nao.org.uk/2014-criminal-justice)

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## Key facts

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**8m**

crimes estimated in the Crime Survey for England and Wales, year ending September 2013

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**£17.1bn**

total funding of the criminal justice system by central government

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**£24bn**

estimate of the social and economic cost of organised crime to the UK annually

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**37 per cent**

of police reports contained an adequate summary of the evidence needed by the prosecutor for presentation in court

**2,000**

approximate number of police force information systems, connected through local infrastructure, managed locally by around 5,000 staff

**24 years**

age of the Crest case management system used in Crown Courts, making it difficult to maintain and enhance

**49 per cent and  
55 per cent**

proportion of 'ineffective' and 'cracked' trials (which did not take place as scheduled) in Crown Courts and magistrates' courts respectively during Quarter 3 2013

**£17 million to  
£19 million**

estimated cost in terms of staff and judiciary time of 'cracked' and 'ineffective' trials in 2012

**More than  
80 per cent**

of trial results transferred automatically to the Police National Computer, ensuring that offenders' criminal records are up to date (Ministry of Justice estimate)

# Introduction

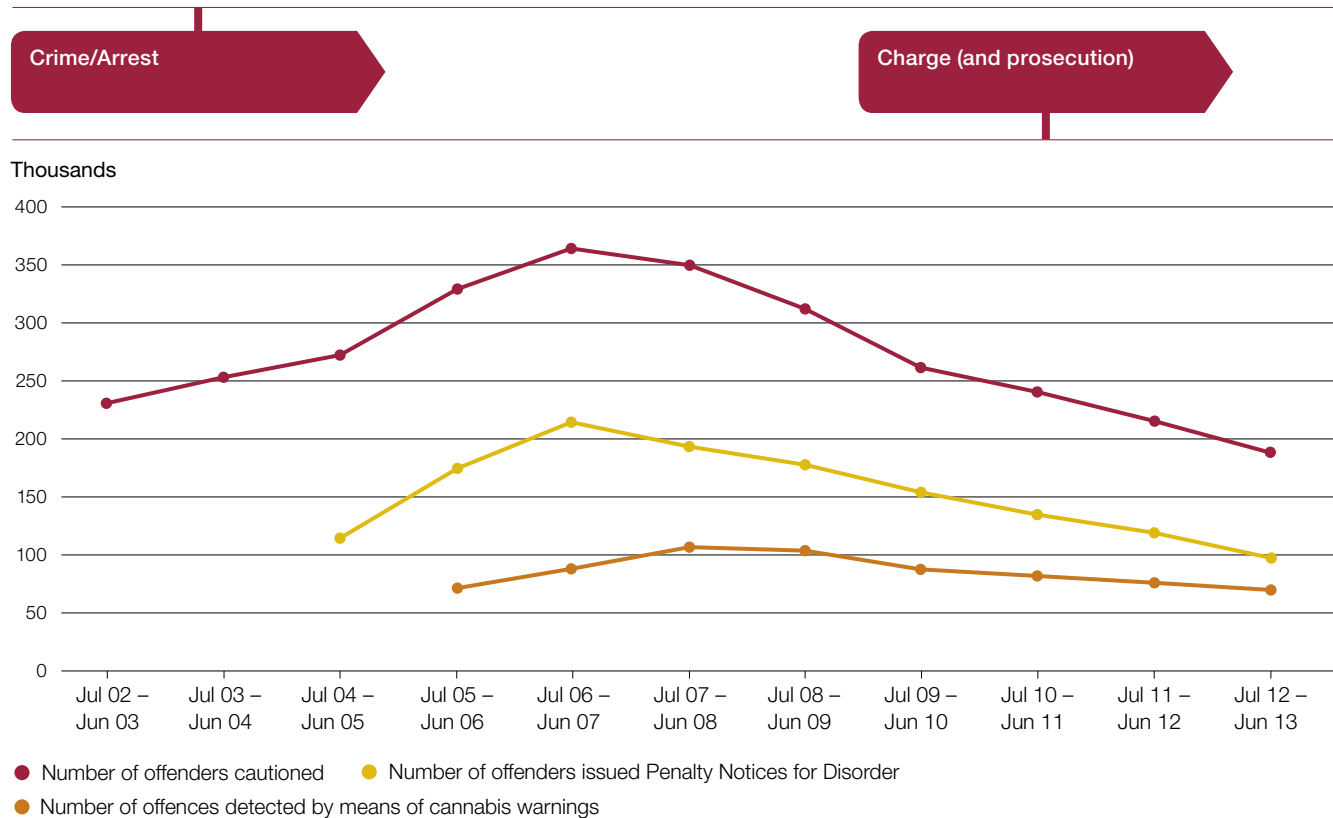
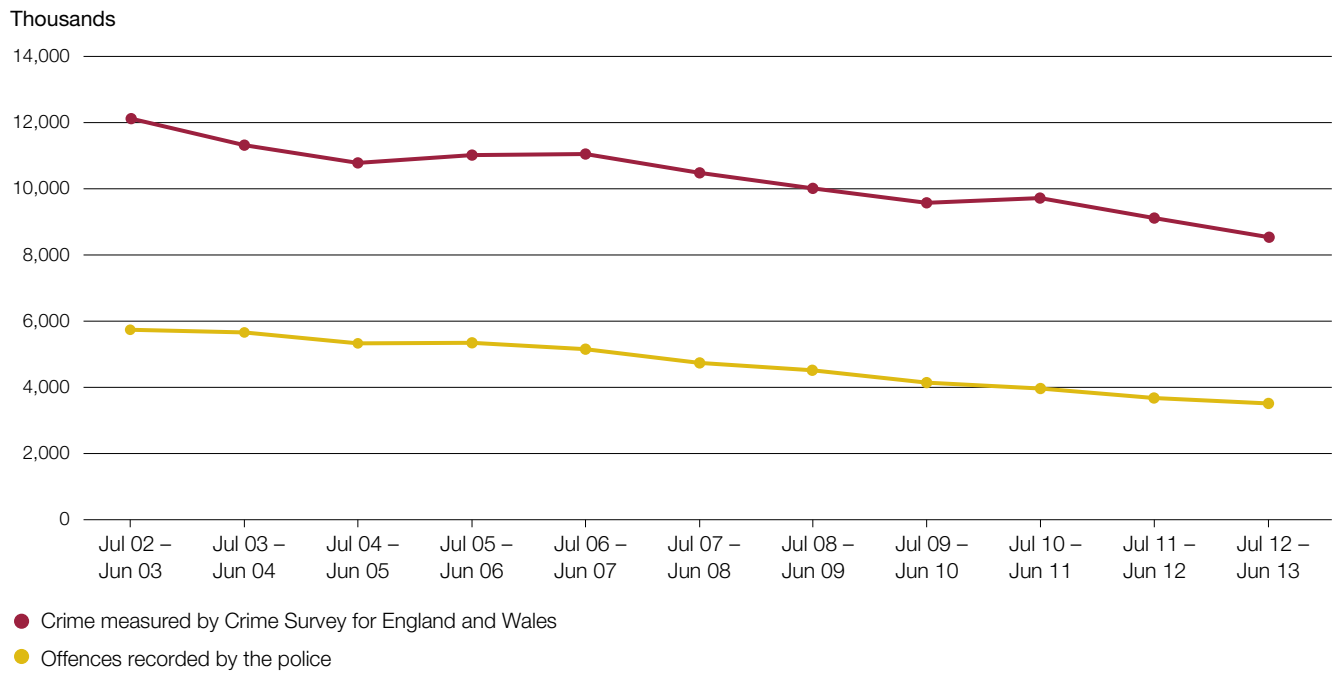
**1** The criminal justice system (the System), overseen by the Home Office, the Ministry of Justice (the Ministry) and the Attorney General's Office (collectively the Departments), operates to reduce crime and reoffending; to punish offenders; to protect the public; to provide victims with reparation; to increase public confidence, including among victims and witnesses; and to ensure the System is fair and just. The System encompasses the functions of the police, prosecution, courts, prisons, youth justice services and probation. These and other partners exist as independent agencies to ensure fairness. As a result, to operate effectively, the System relies on the collaboration of all those who work within it, as well as on the cooperation of victims, witnesses, police, prosecutors, defence lawyers and others.

**2** The System operates against a background of falling recorded crime (**Figure 1** on pages 6 and 7). The Crime Survey for England and Wales showed an estimated eight million incidents of crime against households and resident adults for the year ending September 2013: a 10 per cent decrease compared with the same period in 2012, and the lowest estimate since the survey began in 1981. Although crime has fallen significantly, the prison population has not. It has stabilised over the last three years, but at some 84,000 prisoners remains almost twice as high as 20 years ago. Researchers recently estimated the social and economic cost to the UK of organised crime alone as at least £24 billion annually.

**3** Our work over many years has shown how the System is vulnerable to multiple small points of failure that can have significant consequences. These include delays in providing documentation and data, presenting defendants to court and transferring responsibility for individuals between agencies. Ensuring that all those required are available when a case is ready to be tried can be problematic; for example, we recently reported on difficulties for courts caused by a lack of interpreters. There are many opportunities for these minor shortcomings, failings and delays in one part of the System to slow down or cause other parts to work less efficiently, or to stop altogether. Around half of all criminal court trials do not proceed as planned, wasting court time. The Ministry estimates that in 2012 the total cost of trials that did not go ahead was between £17 million and £19 million for the courts service and judiciary alone. The total cost of delays to all parties, including the defence, witnesses, victims and the police, prosecution and prison services, would be much greater.

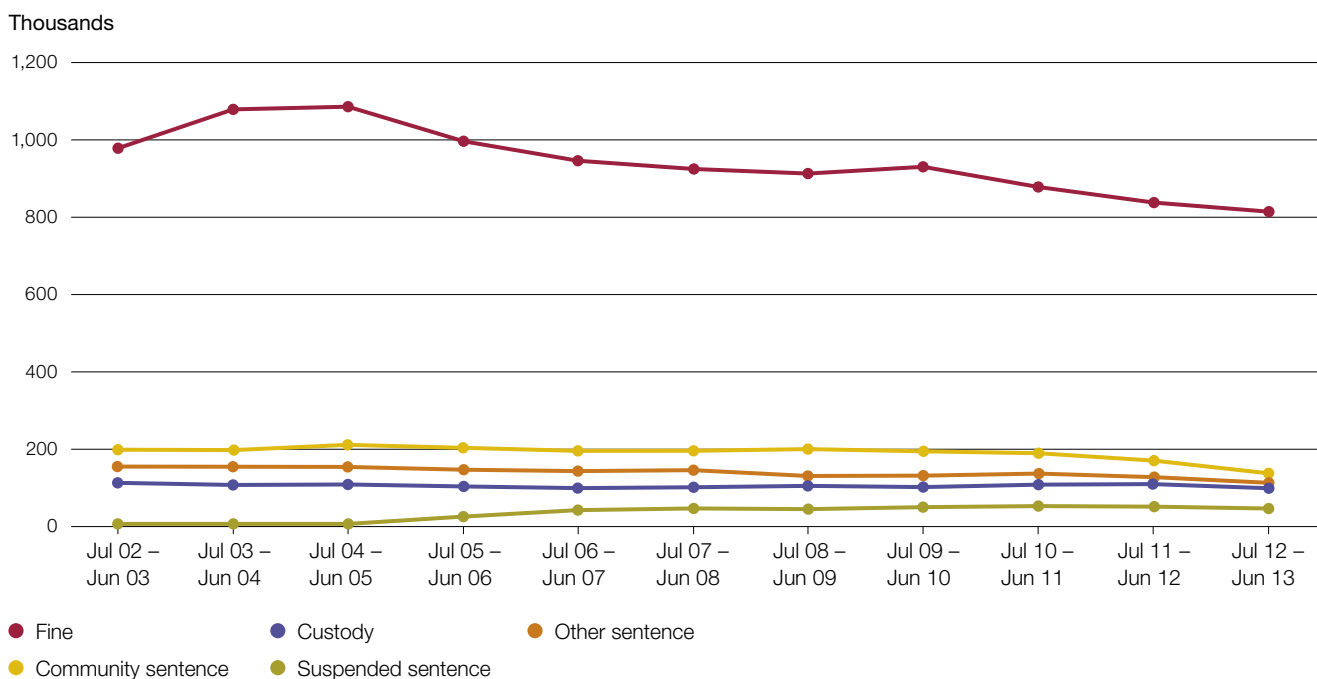
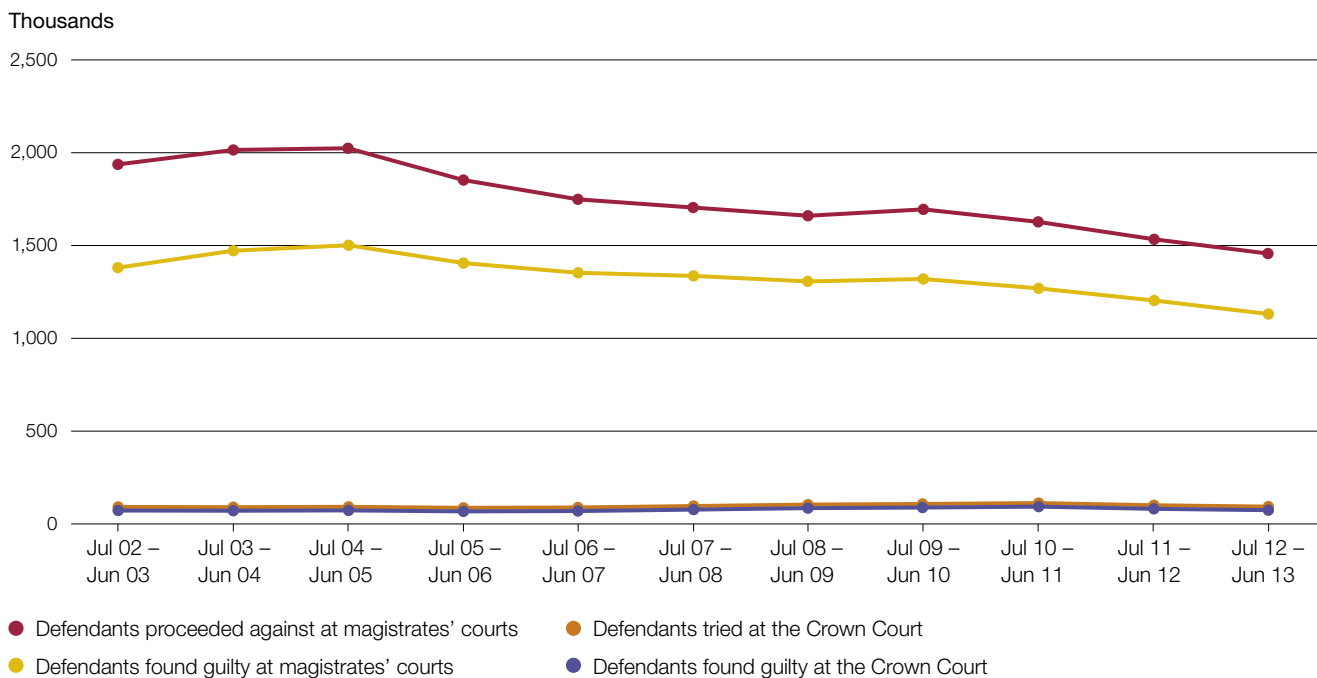
**Figure 1**  
Overview of key trends in criminal justice 2002 to 2013

The System has reported falling levels of crime. The prison population remains high, although it has stabilised in recent years



Source: Ministry of Justice





4 The Departments recognise this: their 2012 business plans made more reference to the need for joint working than those of other government departments. The System is currently undergoing comprehensive change, designed to improve the aspects the government considers do not work well and to help make significant cost savings. The White Paper *Transforming the CJS*, published in June 2013 by the Ministry, set out a two-year programme of reform. It considered that the System remained cumbersome and slow, and contained too many complex procedures and archaic working practices. Even straightforward cases involved multiple ‘rubbing points’, where data had to be transferred and agencies waited for others to provide information. The use of technology lagged behind other public services. The White Paper also recognised the need for better collaboration and outlined the shared outcomes that all parts of the System should be working to achieve.

5 Major changes to the System are being implemented alongside significant reductions in resources. For example, at the end of March 2013, the number of police officers was some 127,000: 10 per cent lower than the same time three years before. The number of civilian staff in the police force has also decreased by 18 per cent, from around 78,000 to 64,000, and the number of probation staff fell by 12 per cent, from around 19,000 to 16,000, over the same period. These, and reductions such as limiting access to legal aid for some groups, are being implemented while maintaining a commitment to providing access to justice for all.

6 This landscape review takes a strategic view of the whole System. It has been prepared to allow consideration of the main challenges to an efficient System and of whether the current reforms are addressing the issues identified. We have drawn mainly on our value-for-money studies, our audit of financial statements and also documentary evidence in the public domain produced over the last three to four years. We have not conducted a new detailed examination of the System.

7 **Figure 2** presents the main challenges to the System identified in our work, along with a summary of relevant current reforms. Our analysis suggests the reforms are addressing many of the systemic problems, based on an understanding of the causes, although it is too early to comment on whether they will be effective. In particular, efforts are being made to:

- reduce demand in the System by tackling groups with the highest rates of reoffending;
- take a more coordinated approach to managing across the System; and
- improve use of new technology for sharing information between partners.

**Figure 2**

## Major challenges facing the criminal justice system and relevant reforms

Challenge	Reform
Heavy demands on the System due to high volume of reoffenders	<p>The Transforming Rehabilitation programme includes extending statutory rehabilitation to all offenders serving sentences of fewer than 12 months for the first time, opening up the market to more providers to encourage innovative ways of tackling stubbornly high reoffending rates and rewarding providers for success in reducing reoffending.</p> <p>'Through the prison gate' resettlement is designed to provide continuous provision by the same provider. Also, the majority of prisoners on longer sentences will be moved to a resettlement prison three months before release to ensure they are released closer to home.</p> <p>Tackling Youth Justice – government plans to double the average of 12 hours of education provided weekly in young offenders' institutions. A secure training college scheduled to open in 2017 would, if successful, provide a blueprint to replace most existing provision.</p>
Lack of joint working between organisations, and poor coordination between partners	<p>To coordinate joint working, a Minister of State for Policing and Criminal Justice was appointed in 2010.</p> <p>The Criminal Justice Board was established in 2013 to ensure a 'whole system' approach across the System and to overcome operational barriers. The Board oversees the <i>Transforming the CJS</i> action plan.</p> <p>Police and crime commissioners, established in 2012, have a key role to play in implementing change locally and ensuring that criminal justice agencies work together.</p>
Slow, bureaucratic and complicated processes, leading to inefficiencies and poor experiences for victims and witnesses	<p>Reforms are focusing on ending reliance on paper by creating a digital case file and 'digital courtroom', with the aim of a single, common information management system.</p> <p>Reforms are redirecting lower-level offences such as traffic or licensing cases through streamlined procedures or through prosecution by the police.</p>
Inadequate contract management	<p>In December 2013, the Ministry published its <i>Contract Management Review</i>. This revealed long-standing weaknesses and inconsistency in standards of contract management at the Ministry. It recommended development of greater professional capability and the need for a more formal approach to contract management and clear senior-level attention.</p>
Inadequate IT	<p>In 2013, the Ministry announced that it would be investing £160 million for 'digital courtrooms' and improved IT systems across agencies, meaning information could be shared electronically, securely and efficiently.</p> <p>The Ministry's digital strategy encompasses four exemplar digital services and it plans to redesign all current services by 2018.</p>
Inadequate understanding of what works	<p>The government selected the College of Policing to host the 'What Works' Centre for Crime Reduction to provide better evidence on effectiveness to guide public spending decisions.</p>
Reducing the cost of the criminal justice system	<p>Reform of the prison estate, since 2010, will have contributed £71 million of savings by the end of 2013-14 through closing old and inefficient prisons, and investing in modern accommodation. This is planned to reach £211 million by 2015-16.</p> <p>Legal aid reform is intended to deliver £170 million of savings through cutting solicitor and other litigator fees, reducing fees in other areas of criminal justice work and making changes to eligibility.</p>

Source: National Audit Office analysis of Ministry of Justice documents

**8** However, much remains to be done to tackle inefficiency and reduce the multiple points of failure within the System, including:

- removing impediments that prevent trials from beginning on the dates scheduled and minimising waste from late cancellations or deferrals;
- replacing the manual transfer of data with well-designed digital transfers between the different agencies;
- developing more effective contractual relationships to ensure high-quality performance by contractors and minimise their role in cancelled trials;
- developing the use of evidence to show what is cost-effective in changing offender behaviour;
- understanding how the costs and benefits of changes fall on different parts of the System over time; and
- developing a strategic approach to improving the collection rate of fines and confiscation orders, both to offset running costs and to demonstrate that crime does not pay.

**9** These issues, and the effectiveness of the range of responsible organisations in tackling them, will provide the basis for our future work programme on the System.

**10** This report is in three parts: management and governance of the criminal justice system (Part One); joint working between the agencies involved (Part Two); and the handling of information through the System (Part Three).

**11** Our overall conclusions are:

- **The System has evolved over time, has no single ‘owner’ and has been subject to regular change and reform.** It incorporates a wide range of bodies with different functions and accountabilities. The System deals with a variety of complex criminal behaviour, the causes and effects of which are often poorly understood. These and other factors make managing it effectively a major challenge for government.
- **The government’s reform programme is ambitious and will take time.** The aggregate and combined effects of multiple, concurrent changes are difficult to model but are likely to be significant. Though organisational changes can be implemented relatively quickly, working through deeper changes to working practices, system developments and cultures will take months and years.

- **Delivery partners need to work well together at national and local level, focusing on how best to achieve the overall objectives of the System, rather than optimising the performance of their own organisations.** The need for good local joint working is even more crucial in the light of changes to local accountability and performance measurement.
- **Interrupted information flows within the System can prevent cases from proceeding efficiently.** If the System is to achieve real efficiencies and planned cost savings, departments, agencies and local criminal justice partners need to implement an agreed and coherent plan to address problems with information flows as a priority.

# Part One

## Management and governance of the criminal justice system

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### Key issues for consideration

How the new structures can identify System-wide opportunities to reduce costs, maximise efficiencies and deliver improved outcomes for justice.

How the current extensive body of concurrent reform can transform the criminal justice system (the System) without adding to its complexity and variability.

How the departments and agencies involved can best harness the skills and innovation of the private and third sector in ways that are sustainable and provide value for money for the taxpayer.

Whether the control, accountability and performance monitoring arrangements are adequate to oversee performance and identify areas for improvement.

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**1.1** The System is complex and involves many different parties that need to work effectively together (**Figure 3**). This part describes the participants in the System and how reform is changing it, focusing on:

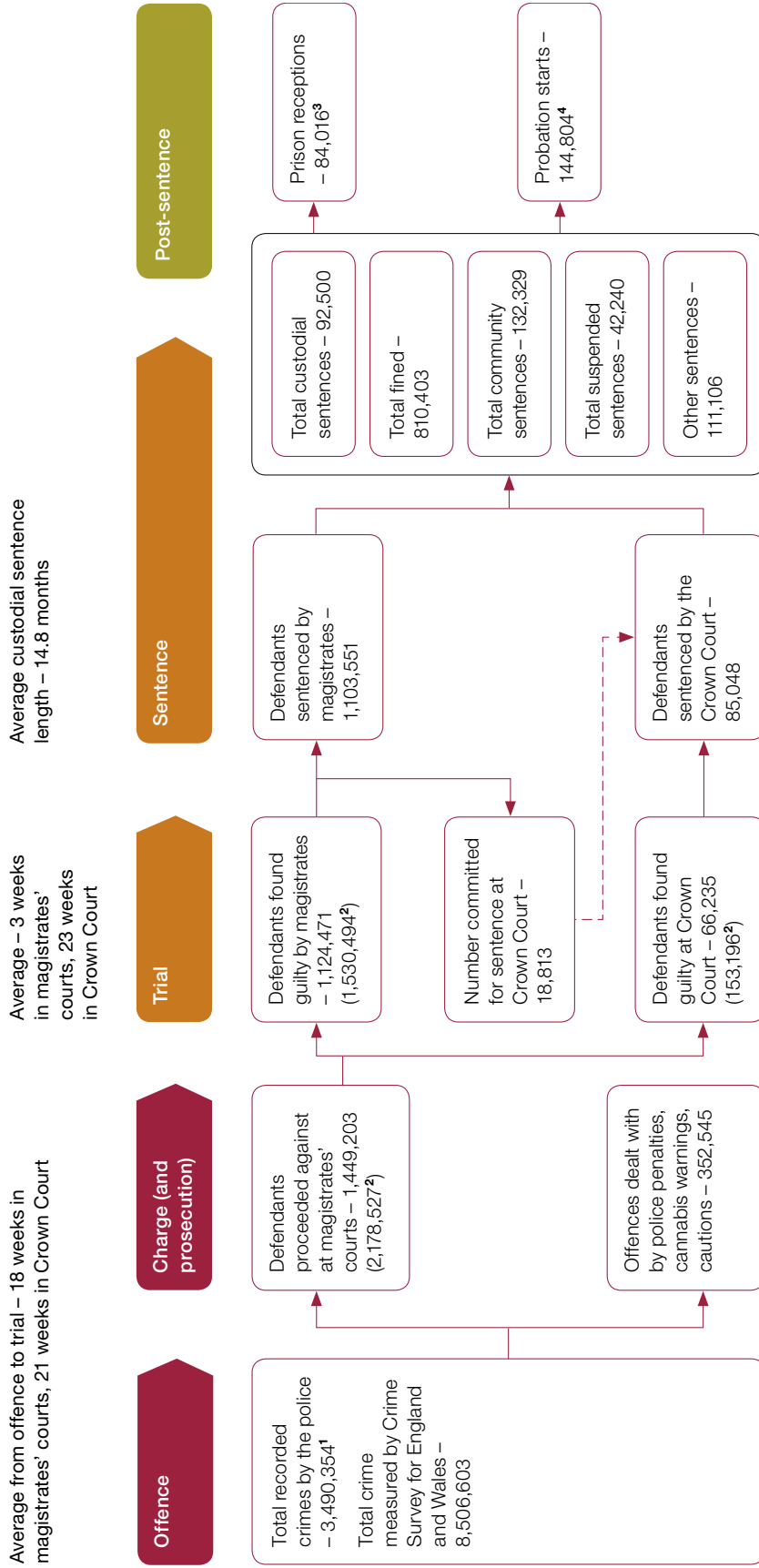
- the delivery chains;
- how delivery is coordinated through a range of local and regional bodies; and
- the range of systems used to regulate outcomes.

### Participants within the criminal justice system

**1.2** Under the current constitution and structure of government, there can be no single 'owner' of the System. This helps to provide essential safeguards for citizens and independence from political control for elements such as the judiciary and the police. However, it can also bring costs, arising from the need for careful coordination and consultation across the System. And it can create multiple points of failure where problems arise in one part of the System that affect partners elsewhere.

**Figure 3**  
Criminal justice system activity levels by phase (12 months ending June 2013)

The majority of cases are tried in magistrates' courts. More serious offences receive longer trials in the Crown Court and most of these result in custodial sentences



**Notes**

- 1 Covers all indictable offences, including triable either way, plus a few closely associated summary offences.
- 2 Total number of all offences in comparison with the total number of defendants on a principal offence basis.
- 3 Receptions for offenders given a custodial sentence (figures include fine defaulters).
- 4 Offenders starting Community Order or Suspended Sentence Order supervision by the Probation Service.

Source: Ministry of Justice and Open.Justice.gov.uk (accessed 16 January 2014)

**1.3** Many bodies are involved (**Figure 4**). In particular:

- The **Ministry of Justice** (the Ministry) is responsible for setting and delivering government policy on criminal justice and for providing services (including courts, legal aid, prisons, youth justice services and probation) that offer access to justice while punishing and rehabilitating offenders.
- Below Ministry level, responsibility for delivery falls mainly to the **National Offender Management Service** (NOMS) (for prisons and probation) and **HM Courts & Tribunals Service**, as well as smaller specialist sponsored bodies. The **Legal Aid Agency** administers civil and criminal legal aid.
- The **Home Office** is responsible for supporting the police and local communities to tackle crime and antisocial behaviour. Police forces are funded through grants from the Home Office, **Department for Communities and Local Government** and the **Welsh Assembly Government**, along with locally raised council tax 'precept', set since 2013 by elected **police and crime commissioners** (PCCs).<sup>1</sup>
- PCCs work to secure efficient and effective policing within their areas, and to hold chief constables to account for delivery against published plans. They are required to release their annual plans to the public, and are subject to scrutiny from Police and Crime Panels, drawn mainly from local authorities.<sup>2</sup> In July 2012, the government set out reforms to change the commissioning of emotional and practical support services for victims and witnesses. Subject to legislation,<sup>3</sup> from October 2014 this responsibility will transfer from central government to local PCCs.

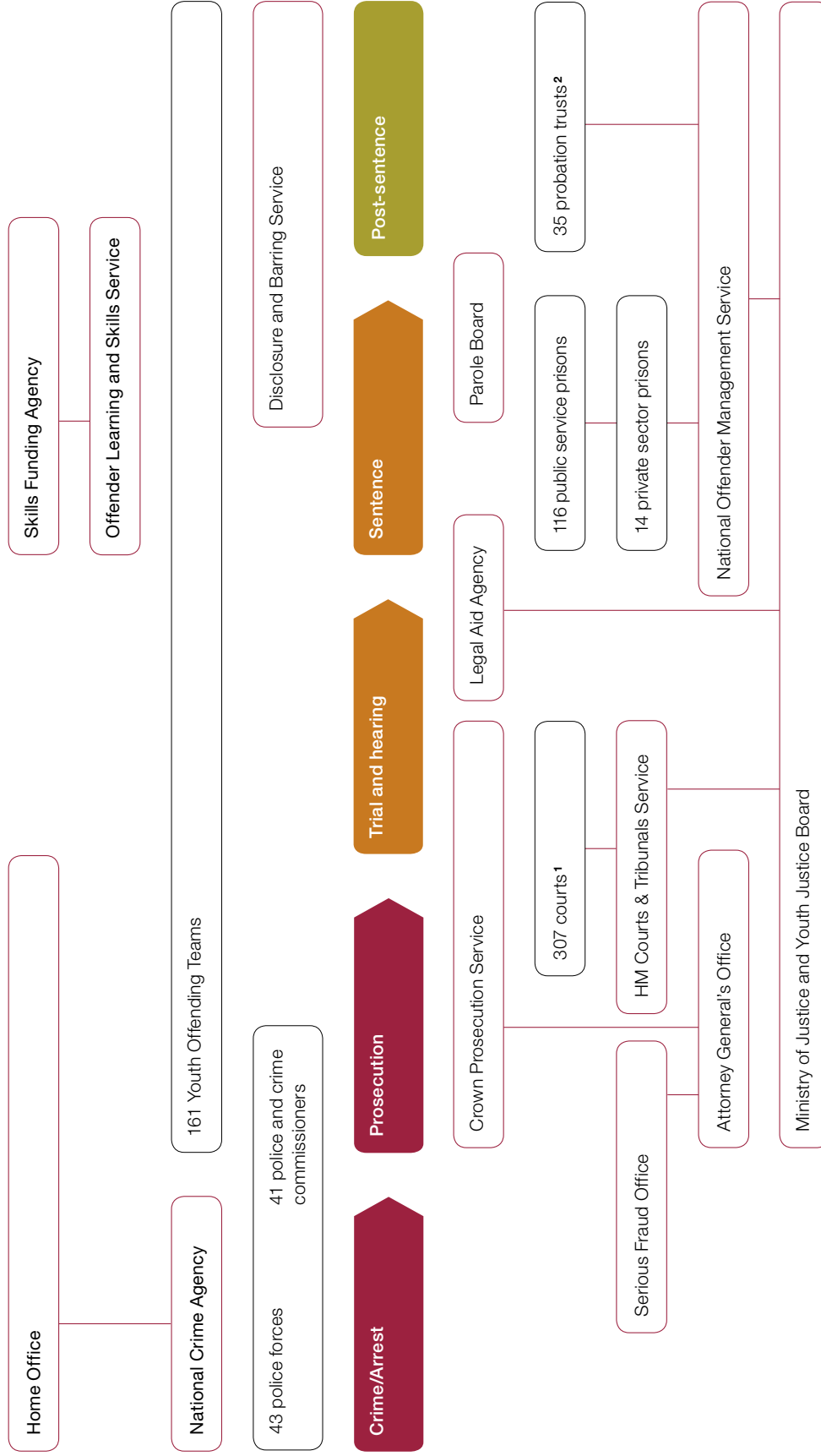
**1.4** The **Attorney General** superintends the independent prosecuting departments, the **Crown Prosecution Service** (CPS) and the **Serious Fraud Office**. Both have a statutory duty to prosecute cases and, in the case of the Serious Fraud Office, to investigate fraud and corruption. The CPS prosecutes criminal cases investigated by the police and other agencies, including Her Majesty's Revenue & Customs in England and Wales, from charge to sentence or acquittal. The **Judiciary's** constitutional independence from both the legislature and the executive is important, so that judges can be fair and impartial, including protecting citizens against any unlawful acts of government.<sup>4</sup>

**1.5** Change in sentencing policy can be difficult. In 2010, the government proposed sentencing reforms expected to result in around 6,000 fewer prison places, leading to £324 million savings. However, in June 2011, it decided not to proceed with some of the proposals. The estimated number of prison places that the Ministry could close through revised sentencing reforms reduced to 2,000, foregoing £134 million of savings from reform.<sup>5</sup> Operational independence is a fundamental element of British policing, to ensure that decisions to arrest and take action against an individual are not under political influence. Locally elected PCCs now hold the 'police fund', from which policing is financed, and set forces' budgets.<sup>6</sup> However, most police funding still comes from central government grants. The costs of the judiciary are borne by the Ministry.<sup>7</sup>



**Figure 4**  
Overview of key organisations in the System

Cases require multiple handovers between both local and national agencies as they progress through the System



**Notes**

- 1 Includes 230 magistrates' courts and 77 Crown Court centres.
- 2 By 2015, probation trusts will be replaced by the National Probation Service, working alongside probation contract areas.

Source: National Audit Office

**1.6** Central government funding of the System straddles several departments, totalling some £17.1 billion (**Figure 5**).

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### **Figure 5**

#### Central government expenditure on the System

Central government department	2012-13 Outturn (£bn)
Ministry of Justice, including:	7.7 <sup>1</sup>
<ul style="list-style-type: none"> <li>● National Offender Management Service</li> <li>● HM Courts &amp; Tribunals Service</li> <li>● Legal Aid Agency</li> <li>● Youth Justice Board</li> </ul>	
Home Office:	4.4 <sup>2</sup>
<ul style="list-style-type: none"> <li>● Police Main Grant</li> </ul>	
Department for Communities and Local Government:	4.2 <sup>2</sup>
<ul style="list-style-type: none"> <li>● Police Grant</li> </ul>	
Crown Prosecution Service	0.6
Attorney General's Office	0.004
Serious Fraud Office	0.04
Department of Health:	0.1 <sup>3</sup>
<ul style="list-style-type: none"> <li>● Offender Health Funding</li> </ul>	
Department for Business, Innovation & Skills:	0.1
<ul style="list-style-type: none"> <li>● Skills Funding Agency – Offender Learning and Skills Service</li> </ul>	
<b>Total</b>	<b>17.1</b>

#### **Notes**

1 Figure excludes the civil element of the Legal Aid Fund.

2 Figure indicates total allocation.

3 Figure indicates operating income received by the National Offender Management Service from the Department of Health and NHS, Primary Care Trusts and other healthcare providers.

Source: Departments' Financial Statements 2012-13

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## Joint working

**1.7** Since the last general election there have been significant changes to the governance of the System. Recognising the need for joint working, the government appointed a Minister of State for Policing and Criminal Justice, who reports to both the Secretary of State for Justice<sup>8</sup> and the Home Secretary. Joint governance structures are also in place, primarily a Criminal Justice Board (the Board), to provide accountability and coordination across the System and help overcome operational barriers. The Board comprises ministers and representatives from the Ministry, the Attorney General's Office, CPS, the Home Office, police and victims. It is intended to set the direction for how criminal justice partners work together.<sup>9</sup>

**1.8** The White Paper *Transforming the CJS*, published in June 2013, set out a demanding two-year programme of work, including a rapid switch to digital case management across organisational boundaries, and faster, less erratic processing of cases, with shorter and effectively managed trials.<sup>10</sup> Ministers described the changes as “mainly straightforward management actions designed to eradicate the simple failings and mistakes that currently blight the system and lead to delay, unnecessary work and a poor experience for victims and witnesses.” The White Paper contained 64 actions (**Figure 6** overleaf), of which 30 were planned for completion in 2013. The Board will publish its assessment of progress in summer 2014.<sup>11</sup>

**1.9** Better coordination across the System is a major theme of the June 2013 action plan. For example, the government requires the Board to ensure that the planning of resources such as IT, buildings and other procured services are considered from the perspective of how they will affect the System as a whole. The action plan also calls for stronger links between the Board and local criminal justice partnerships.<sup>12</sup>

## Delivery channels

**1.10** Many front-line functions of the System are devolved to sponsored bodies and to police forces (Figure 4). Non-departmental public bodies are legally and constitutionally separate from ministerial control. Executive agencies are part of government departments but are treated separately for management and budgetary purposes. Other government departments, involved less directly with the System, can also have a direct impact on outcomes; for example, many offenders have mental health and substance abuse problems.<sup>13</sup> The Department of Health, through NHS England, and the Skills Funding Agency are responsible for health and education services for offenders in prison. Clinical commissioning groups and local authorities commission key services at local level (in Wales via the Welsh government and NHS Wales). This organisational span presents a challenge in standardising criminal justice processes and ensuring a timely flow of financial and operational information.<sup>14</sup>

**Figure 6**

## The Departments' action plan for the System

Theme	Summary of actions	Number	Timescales for completion
A digital system	Actions include introducing streamlined digital crime files, digital courtrooms and increased use of video	5	Mainly 2014, 2015
Faster, effective proceedings	Actions to ensure that fewer cases require time in magistrates' and Crown Courts, and that the remainder proceed efficiently when they do	18	Mainly 2013; some 2014
A transparent and responsive System	Providing information on how the System performs at local and national levels	4	By spring 2014
Care for victims and witnesses	Improved support for witnesses, and enhanced feedback or reparation to victims	8	2013-14
Right response to crime	Initiatives include considering how the System deals with sexual and violent offences, hate crime and the vulnerability of witnesses and victims in court	20	2013-14
Partnership working	Improved joint working across the System through collaborative procurement, more integrated IT and workforce management, and spreading good practice	9	2013, 2014 and 2015
<b>Total</b>		<b>64</b>	

Source: National Audit Office analysis of the *Transforming the CJS* action plan

**1.11** Another trend has been towards greater use of the private and voluntary sectors in providing services, particularly in offender management. In recent years, work has been under way to develop and extend the use of 'payment by results' approaches. This means paying private and third sector providers, at least partly, on the basis of the outcomes they achieve rather than the activities they undertake. The Ministry is implementing this approach in transforming rehabilitation to reward those providers that devise and deliver the most effective programmes. Around half of adults are reconvicted within one year of being released from prison, with little movement in overall reconviction rates over the last decade.

**1.12** Interim figures from the pilot scheme at HMP Peterborough show some progress in reducing reoffending within 12 months of prisoner release, from 163 reconvictions per 100 offenders to 148, over a period when national reconviction rates rose from 146 to 160 per 100 offenders.<sup>15</sup> Interim figures of the pilot scheme at HMP Doncaster (which measures reconviction in a different way to Peterborough) suggest reconviction rates improving slightly ahead of national trends. For Doncaster, the proportion of offenders reconvicted fell to 53.8 per cent compared to 60.1 per cent and 57.7 per cent respectively in the two periods used for comparison. Nationally, reconviction rates fell to 54.1 per cent compared to 57.0 per cent and 55.6 per cent respectively over the same periods.<sup>16</sup> These figures are indicative, as they are based on incomplete cohorts of offenders released from the two prisons. Furthermore, a comparison with the national equivalent does not take into account any unique characteristics of offenders at HMPs Peterborough and Doncaster.<sup>17</sup>

**1.13** In September 2013, the Ministry invited bids for rehabilitation contracts worth £450 million a year (across 21 contract package areas in England and Wales) to supervise and rehabilitate 225,000 low- and medium-risk offenders.<sup>18</sup> In December 2013, a total of 30 bidders passed the first stage of the competition. Complementing these reforms, NOMS has designated a network of 87 resettlement prisons,<sup>19</sup> covering each contract area, to release the vast majority of adult male offenders locally, while 'through the prison gate' resettlement will offer offenders continuous support from one provider, from custody into the community.<sup>20</sup> Witnesses to the Justice Select Committee, including some supportive of the proposed changes, have expressed concerns about the scale, architecture, detail and consequences of the reforms – some of which are still to be determined and tested – and the pace of implementation.<sup>21</sup>

**1.14** HM Chief Inspector of Probation also warned, in March 2013, that:

- the success of the ‘payment by results’ scheme will depend on how results are defined and measured;<sup>22</sup>
- a lack of clarity about roles could lead to confusion about who carries the lead responsibility, which may institutionalise existing problems;
- insufficient attention could be paid by the private providers to risk of public harm because such risks are regarded as public sector business; and
- voluntary bodies are financially fragile and have relatively little infrastructure to support them.<sup>23</sup>

The Cabinet Office and NOMS have subsequently undertaken further developmental work on the payment mechanism and to build the capacity of voluntary and community sector (VCS) providers.<sup>24</sup>

**1.15** Our own work on ‘troubled families’ shows that using ‘payment by results’ has advantages, although departments need to understand the risks of using it where cost and other data are weak. Without information on costs and on the outcomes that would have been achieved without intervention, there is an increased risk that payments will be set too high or too low.<sup>25</sup>

## **Relationships with the private sector**

**1.16** The System already makes extensive use of private sector providers, including forensic science to support prosecutions, providing and operating prisons, tagging offenders’ movements and essential services such as moving prisoners and language translation. Experience of private sector operation of prisons extends back to the early 1990s, exhibiting successes as well as problems.<sup>26</sup> The CPS has long briefed members of the self-employed Bar for prosecution services.

**1.17** Private finance and existing long-term contracts can raise challenges in the search for operational savings and require careful design of incentives. We reported in December 2013 that NOMS has exempted privately run prisons from closure because they provide modern accommodation (13 of the 14 privately run prisons were built recently) and because the cost of exiting long-term contracts would be too high and the negotiations protracted.<sup>27</sup> Whatever the merits of this assessment, several private prisons were inefficient according to their economic ranking.

**1.18** That NOMS did not consider privately run prisons for closure, therefore, demonstrates a potential weakness of long-term contracts. NOMS has made some progress in improving the efficiency of private prisons, including negotiating one-off cash savings and longer-term efficiency savings, but its ability to do so is limited by long-term contracts.<sup>28</sup> In July 2013, government clients, including the Ministry, agreed a code of conduct for private finance initiative (PFI)/public–private partnership (PPP) contracts. The code sets out the voluntary basis on which public sector bodies and their PPP partners (investors, lenders, construction contractors and service providers) agree to identify and deliver efficiencies and savings in operational PFI and PPP contracts. It is not legally binding and does not add to, amend or replace existing contractual agreements.<sup>29</sup>

**1.19** Some of our recent reports have shown the importance of strong control frameworks over contractors, sound incentives and a good understanding of the markets in which contracts are let.

**1.20** The Ministry has had contracts in place with G4S and Serco electronic monitoring services, which confirm that individuals on bail or released from custody are in their curfew locations at the required times. In 2013, the Ministry identified potential irregularities in the charges made by the contractors from data it obtained during the process of putting new contracts in place. These issues highlight the need for a better control framework from departments over service delivery by contractors.<sup>30</sup> In November 2013, the Ministry decided not to extend private sector management to three prisons in South Yorkshire, recognising the continuing investigations into Serco’s operations.<sup>31</sup> In December 2013, G4S and Serco announced they had withdrawn from the separate competition to run probation services.<sup>32</sup>

**1.21** The importance of understanding the market when letting contracts is illustrated by two other recent cases. In August 2011, the Ministry signed a framework agreement with Applied Language Solutions (ALS), now part of Capita, for interpreting and translation services to justice bodies. Courts and tribunals immediately faced operational difficulties, with a large number of requirements going unfulfilled at the start of the contract and many interpreters refusing to participate. We investigated aspects of the contract and found there were strong reasons for implementing a new system and that fair and competitive tendering processes had taken place. However, the Ministry had:

- not performed sufficiently thorough due diligence on the successful bid;
- underestimated risks and not engaged sufficiently with stakeholders to understand the market;
- been slow to perform inspections; and
- decided not to enforce deductions for poor performance, even after Capita had failed to comply with its contractual obligations.<sup>33</sup>

**1.22** A further important change has been the closure of the Forensic Science Service (the Service) in March 2012. Despite holding 60 per cent of the forensics market, the Service had been struggling to adapt for many years and its share of the market had been steadily declining. The Commons Select Committee on Science and Technology concluded in July 2013 that the direct costs to the Home Office of closing the Service appeared to have been well managed. But the Committee described the government as weak in recognising the wider costs to the System and demonstrating value for money to the taxpayer, because of a lack of transparency over total police expenditure on forensic science. The Committee also raised concerns as to whether private providers would be unwilling to invest further in a shrinking market.<sup>34</sup>

### **Regional and local management structures**

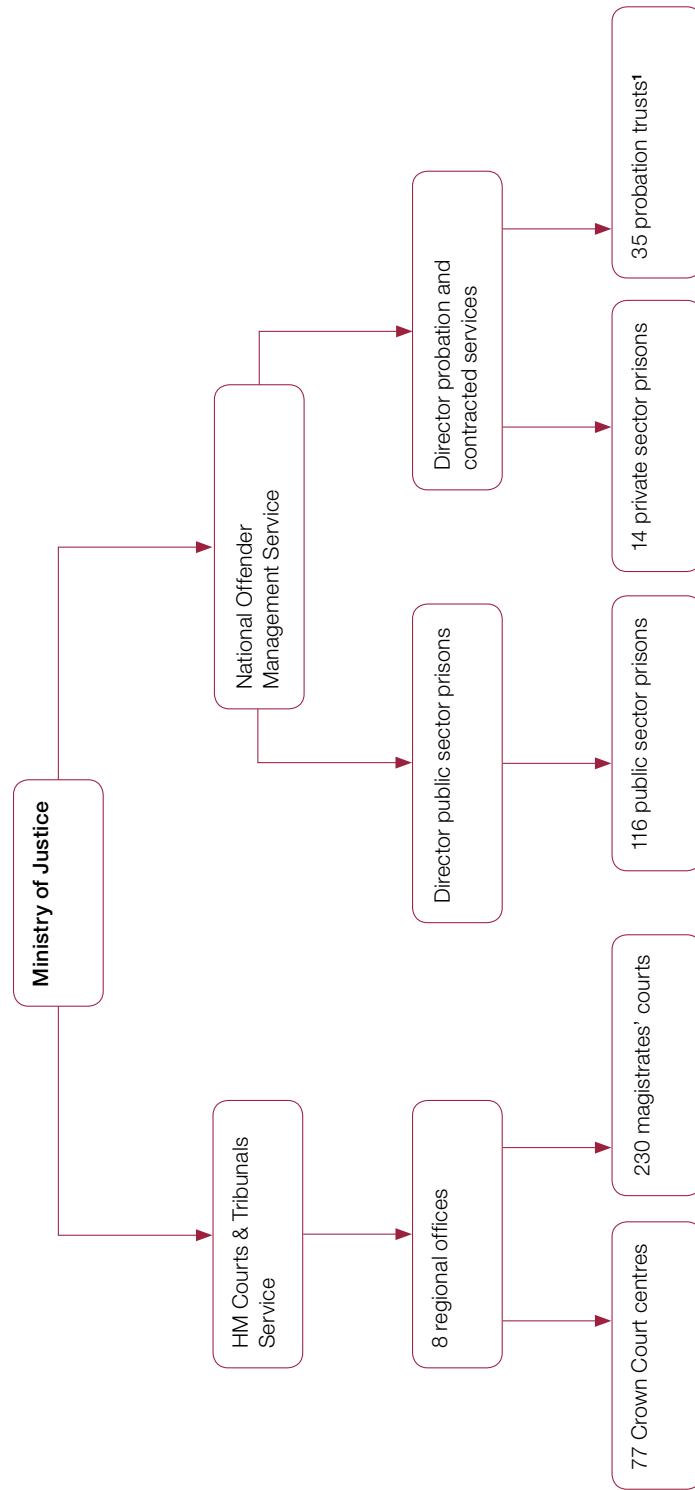
**1.23** Some criminal justice partners have regional as well as local area organisations and long delivery chains, meaning front-line staff have to coordinate activities between separate organisations (**Figure 7**). For example, to process cases, court staff usually need to liaise with the police force, the CPS and probation services, and defendants might have to be transported to or from a prison.<sup>35</sup>

**1.24** Arrangements for coordination of agencies are increasingly open to local variation across the country.<sup>36</sup> In some places, local criminal justice boards still provide area-level coordination of local criminal justice partners. Boards brought together the chief officers of the local criminal justice partners to coordinate activity and share responsibility for delivering justice locally. In November 2013, HM Inspector of the CPS reported concerns that performance measures and coordination with criminal justice partners had declined in the previous two years. With the demise of the Office for Criminal Justice Reform, abolition of Public Service Agreement targets and withdrawal of funding for local criminal justice boards, many CPS areas and their partners have struggled to put in place robust mechanisms to measure and assure joint performance. More recently, partnership structures have seen a slow reinvigoration, and 90 per cent of CPS areas now work within some form of local criminal justice board structure. Overall, however, inspectors found effective joint performance and improvement to be slow rather than dynamic.<sup>37</sup>

**1.25** In some localities, Community Safety Partnerships bring together public authorities to address issues of common interest in a joined-up way. Legislation specifies that PCCs and the public authorities represented in Partnerships must cooperate and take account of each other's priorities. The Home Office has encouraged those involved in local partnerships to consider developing fewer, better partnerships, in the light of reducing public sector funding.<sup>38</sup> The Criminal Justice Board has set out steps to facilitate effective local partnerships and remove barriers to joint working in the criminal justice system action plan.<sup>39</sup>



**Figure 7**  
Delivery chains in HM Courts & Tribunals Service and National Offender Management Service



**Notes**

- 1 Trusts will be replaced by 2015 by the National Probation Service, working alongside probation contract areas.
- 2 Further providers deliver key services to courts, prisons and trusts.

Source: National Audit Office analysis of the Ministry's management structures

## The System is subject to a range of accountability arrangements

**1.26** Several bodies exert influence over the direction of development of the System and ensure its accountability (**Figure 8**). All the delivery partners have their own internal audit functions, whose work is considered by an audit committee. The departments, agencies and other bodies are subject to external audit by the Comptroller and Auditor General, who reports regularly to Parliament following both audits of financial statements and regular value for money and assurance work. The criminal justice inspectorates also carry out routine and thematic inspections of the police, CPS, courts, prisons and probation services, and work together on issues that extend across multiple agencies. PCCs hold chief constables and the local police force to account.<sup>40</sup>

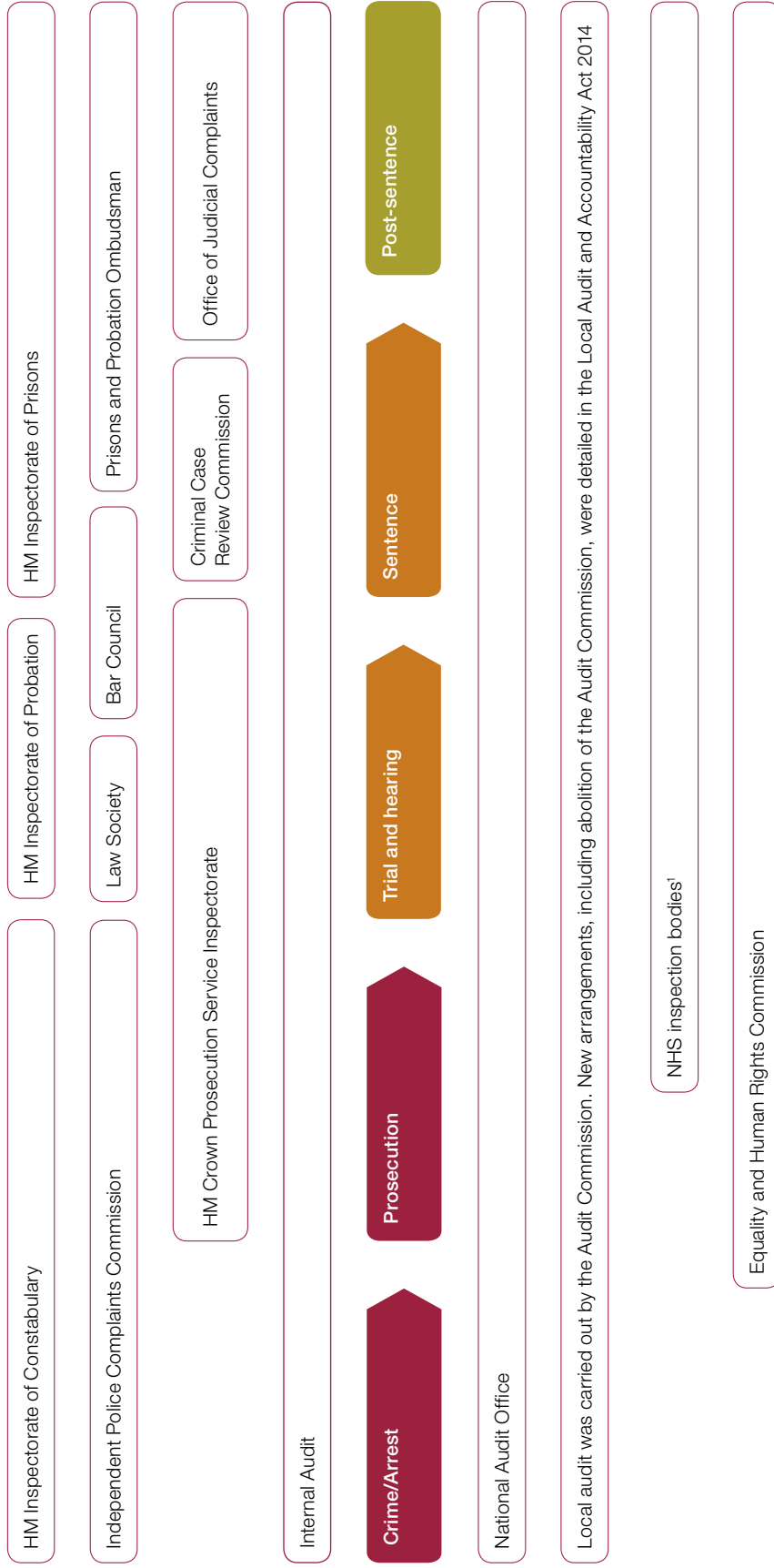
**1.27** The System has long delivery chains, which means that most public funds are spent at a distance from the central departments. This raises challenges for accountability. For example, the Committee of Public Accounts has questioned the Home Office's Accounting Officer on the extent of his responsibility for expenditure on police services in the new context of elected PCCs. The Department's *Accountability System Statement* seeks to balance local accountability with providing assurance to Parliament that central funds have been properly accounted for and spent effectively.<sup>41</sup>

**1.28** Following the 2010 general election, the government changed performance management arrangements, scrapping centrally mandated targets and the public services agreement frameworks. The Ministry now reports selected input and impact indicators against its 2012–2015 business plan. Headline indicators include the percentage of individuals reoffending, the average duration of proceedings in the courts and tribunals system and the unit costs incurred in the legal aid, prison and courts systems.<sup>42</sup> Its quarterly statements of progress against its structural reform plan track multiple actions relating to the System, particularly:<sup>43</sup>

- Sections 1 and 2: Reform rehabilitation and reduce reoffending.
- Section 3: Transforming courts and tribunals and the System.<sup>44</sup>

**1.29** In 2013, a review by the Ministry's lead non-executive director concluded that the Ministry's Board's focus on, and engagement with, performance had improved. However, the Board needed greater understanding of the work and key risks of arm's-length bodies. This is a significant challenge. Besides its four executive agencies, the Ministry oversees seven executive non-departmental public bodies and multiple advisory committees, panels and inspectorates.<sup>45</sup>

**Figure 8**  
Key audit and inspection in the criminal justice system



**Note**

1 NHS inspection bodies include the Care Quality Commission.

Source: National Audit Office

## Part Two

### Joint working and operations of the criminal justice system partners

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#### **Key issues for consideration**

Whether further savings can be made within the criminal justice system (the System).

How departments, agencies and local partners can focus on improving their own effectiveness but also, through cross-System working, make improvements which are of benefit to the System as a whole.

How best to encourage departments that traditionally fall outside of the System to play a more active role in tackling reoffending.

How to improve the evidence base for what works in reducing crime, and to better understand the reasons for variations in outcome between localities and groups.

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**2.1** Responsibilities cross different departments and involve a wide range of delivery partners, which means that it can be difficult to establish and focus on a single outcome for the System. Actions by one partner can have an impact on the System as a whole, and there can be tensions between the missions of individual organisations. This part considers joint working and operations.

#### **Delivery partners**

Efficient use of court resources

**2.2** Historically, delivery partners have had their own objectives and targets to help deliver services efficiently and effectively. But to achieve them, each partner depends, to some extent, on at least one other. This is particularly the case in the courts system.

**2.3** The Crown Prosecution Service's (CPS's) priority is to maximise efficiency and productivity. This requires the police to provide timely and good-quality files that can be served upon the defence, and a proactive court, which identifies the issues in dispute at the first hearing, ensuring that an effective, proportionate trial takes place when scheduled. However, around half of all criminal court trials do not proceed as planned, wasting court time. Around two-thirds of such trials are 'cracked' trials; the remainder are 'ineffective' trials.<sup>46</sup> Cracked cases do not go ahead on the intended date at very short notice but do not need rescheduling, often because the defendant entered a guilty plea or the prosecution dropped the case. Ineffective trials do not proceed on the planned day but need rescheduling, often because the prosecution, the defence or the court are not ready to begin the trial, or the defendant does not attend as instructed.<sup>47</sup> Such delays increase costs, waste witnesses' time and undermine confidence in the criminal justice process.

**2.4** To meet court service targets of minimising the number of ineffective trials and hearings, and make best use of court time, most magistrates' courts overbook trials. As a result, some trials for which all parties are ready to proceed may not go ahead on the appointed day, requiring victims, defendants and witnesses to return at another time (**Figure 9** overleaf). The Ministry estimates that, in 2012, the total cost of cracked and ineffective trials was between £17 million and £19 million in staff and judiciary costs.<sup>48</sup>

### Streamlining the process to bring offenders to justice

**2.5** As well as being fair, justice must be seen to be timely. On average, data on the duration of criminal cases suggest that justice is being delivered slower in 2013 than in 2010 (**Figure 10** overleaf), with four days' increase in duration between offence and sentence since 2010, due to longer periods getting to trial. Among other things, this could be related to the increased complexity of some of the proceedings, for example, the introduction of victim personal statements, or the growth in digital evidence.

**2.6** Decisions made by the police can have an effect on the later stages in the System, altering workloads for the CPS, HM Courts & Tribunals Service, prisons and probation. A streamlined process was designed by the Director of Public Prosecutions in 2008 to reduce the amount of paperwork and police time spent preparing prosecution files. Our initial review found that the process was not fully and consistently implemented, project management was flawed and cost-benefit information was lacking. Half of police prosecution files did not give an adequate summary of the case and 79 per cent contained disproportionate paperwork.<sup>49</sup>

**Figure 9**

The causes of cracked and ineffective trials: July to September 2013

	<b>Magistrates' courts</b>	<b>Crown Court</b>
Total number of trials listed	39,454	8,549
<b>Ineffective</b>	<b>6,747 (17%)</b> (18% in Q3 2009)	<b>1,186 (14%)<sup>1</sup></b> (13% in Q3 2009)
Court administration	5%	3%
Prosecution	5%	5%
Defence	7%	5%
<b>Cracked</b>	<b>14,800 (38%)<sup>1</sup></b> (same proportion in Q3 2009)	<b>2,966 (35%)<sup>1</sup></b> (42% in Q3 2009)
Late guilty pleas	21%	28%
Ended by the prosecution	16%	6%
Other reasons	0.3%	0.3%

**Note**

1 Totals may not sum due to rounding.

Source: Ministry of Justice

**Figure 10**

Average duration of criminal cases

	<b>Days from offence to charging</b>	<b>Days from charging to trial</b>	<b>Trial to sentence</b>	<b>Total</b>
All courts Q3 2010	85	31	33	<b>149</b>
All courts Q3 2013	87	36	30	<b>153</b>

Source: Ministry of Justice

**2.7** Subsequent reviews by HM Inspectorate of Constabulary and HM Crown Prosecution Service Inspectorate in 2013 found:

- improved transfer of data between agencies, but continued day-to-day problems in exchanging information between the police, CPS and magistrates' courts;
- a marked decline, since 2011, in the quality of the police report, which contains the information that the prosecutor needs to present evidence to the court – only 37 per cent contained an adequate summary of the evidence and 51 per cent a summary of the offender interview;
- case files continuing to contain unnecessary witness statements;
- a tendency to focus on providing a prescribed set of documents, with insufficient attention given to the quality and relevance of information provided; and
- although the introduction of digital working was expected to improve the timeliness and quality of case files, incompatible and cumbersome IT systems significantly increased the time required for CPS staff to process work digitally compared to using paper forms.<sup>50</sup>

### Joined-up working

**2.8** In *Transforming the CJS*, the government recognised the need for better collaboration and outlined seven shared outcomes for the System.<sup>51</sup> The government states: 'we simply cannot continue with a situation where one part of the System routinely operates in a way that causes problems for others'. The White Paper warns against procuring incompatible IT systems and taking decisions on the location of estates without considering the impact across the whole System. It also highlights measures to improve integration, including national leadership from the Criminal Justice Board and effective joint working by local partnerships.<sup>52</sup> These initiatives complement reforms in policing such as the election of police and crime commissioners (PCCs), who have a duty to cooperate with other criminal justice agencies to ensure that local criminal justice systems operate efficiently and effectively.<sup>53</sup>

**2.9** The Early Guilty Plea scheme has produced quicker progression of over 11,000 cases since its introduction in June 2013.<sup>54</sup> New and more efficient ways of working in the CPS (through introduction of an 'optimum business model' to ensure all the information is available in time for trial) have produced improvements in some locations. File management (including a reduction in lost and missing files) has improved, and, since 2006-07, there has been a decrease in the number of cracked and ineffective trials attributable to the prosecution in magistrates' courts. HM Inspector of the CPS has concluded that new core quality standards and monitoring arrangements represent good value for money when used to drive improvements.<sup>55</sup> However, standards of case progression remain mixed. CPS units that are properly resourced and proactively managed by supervisors with a full understanding of the process work well. But this is not widespread. In some locations, the efforts of the CPS to improve performance are adversely affected by partner agencies; for example, the quality of police file preparation varies substantially (see paragraphs 2.6–2.7). Elsewhere, it has been reported that the work of partners masks deficiencies in the effectiveness of CPS systems.<sup>56</sup>

### **Conflicting incentives: impact on costs**

#### Reductions in legal aid

**2.10** Implementing cost-saving measures in parts of the System may not necessarily result in overall cost reductions. For example, the introduction of means testing in the magistrates' courts led to a net saving for the Legal Services Commission (now the Legal Aid Agency) of £31.5 million in 2008-09.<sup>57</sup> However, the Magistrates' Association considered that, where defendants were unable to decipher the process for applying for legal aid, cases were adjourned, leading to costs incurred by the Courts Service.<sup>58</sup>

**2.11** Following earlier changes to civil legal aid in the 2013 spending round, the Ministry has consulted on further changes to the System. The main proposals aim to achieve savings of £170 million through:

- legislating for fee cuts for solicitors and other litigators in criminal cases – 8.75 per cent in early 2014 and a further 8.75 per cent in spring 2015;
- reducing fees for other areas of criminal work, including Very High Cost Cases and payments to advocates; and
- making further limited changes to eligibility in prison law cases and the introduction of a financial eligibility threshold in the Crown Court.<sup>59</sup>

The impact of such changes on claimants and the System as a whole is subject to considerable uncertainty. The Bar Council considers that if the Very High Cost Case arrangements are put in place, the most experienced barristers will stop undertaking public work.<sup>60</sup>



**2.12** The Ministry is also introducing a modified model of procurement for criminal litigation contracts. Under these arrangements, there will be a limited number of ‘duty’<sup>61</sup> contracts compared with 1,600 current criminal legal aid contracts. Separately, any firm that meets the qualifying criteria can have a contract to represent existing clients in future cases. The Ministry expects consolidation of providers, and for some larger firms to enter the market. It maintains that it has followed government guidance in producing its impact assessment for proposed changes to legal aid, but has acknowledged that where it has insufficient data it cannot quantify potential impacts.<sup>62</sup> The Ministry told us that the impact assessment has not quantified the behaviour changes because it is difficult to predict how firms will react.

**2.13** In addition to legal aid reforms, the Act reduced the scope of awards from central funds that can be made to privately funded defendants following an acquittal. These awards are no longer available in Crown Court cases and there are now restrictions on their use in the magistrates’ courts. This change may cause defendants, who would previously have used private representation, to claim legal aid since they can no longer apply for central funds, particularly in criminal cases.<sup>63</sup>

## Fines and confiscation

**2.14** Maximising its income would help the Ministry deal with its spending constraints. Although fine collection is improving, it is being outpaced by growth in fines outstanding. The government also aims to deny criminals the proceeds of their crimes, and thereby reassure the public that crime does not pay. However, we found that only about 35p in an estimated £100 of criminal proceeds was actually confiscated in 2012-13. Fundamental problems with the process for confiscating criminals’ assets include a lack of coherent strategic direction and agreed success measures, compounded by weak accountability and a flawed incentive scheme bearing on key players such as chief police officers.<sup>64</sup>

**2.15** HM Courts & Tribunals Service, supported by the CPS and the Serious Fraud Office, seeks to enforce confiscation orders. But, owing to a lack of data and agreed success criteria, it is impossible to make meaningful cost–benefit assessments of the enforcement of different orders. HM Courts & Tribunals Service successfully collects 90 per cent of its orders under £1,000, but it is not clear whether this activity on lower-value orders is cost-effective, or whether resources should be redirected towards enforcing higher-value orders.<sup>65</sup>

## Balancing cost savings with effectiveness

**2.16** Our 2013 report on managing the prison estate showed how reconfiguration of the estate needs to balance achieving cost savings with effectiveness. We concluded that the current strategy for the prison estate is the most coherent and comprehensive for many years and has helped reduce operating costs quickly. Through capital investment of £370 million, it has provided good-quality accommodation. However, it also resulted in the closure of several high-performing prisons, whose performance is not yet matched by new establishments. We concluded that the National Offender Management Service (NOMS) urgently needs to improve new prisons and also consider if it can close fewer high-performing ones in future.<sup>66</sup>

## Causes and effects across the justice system

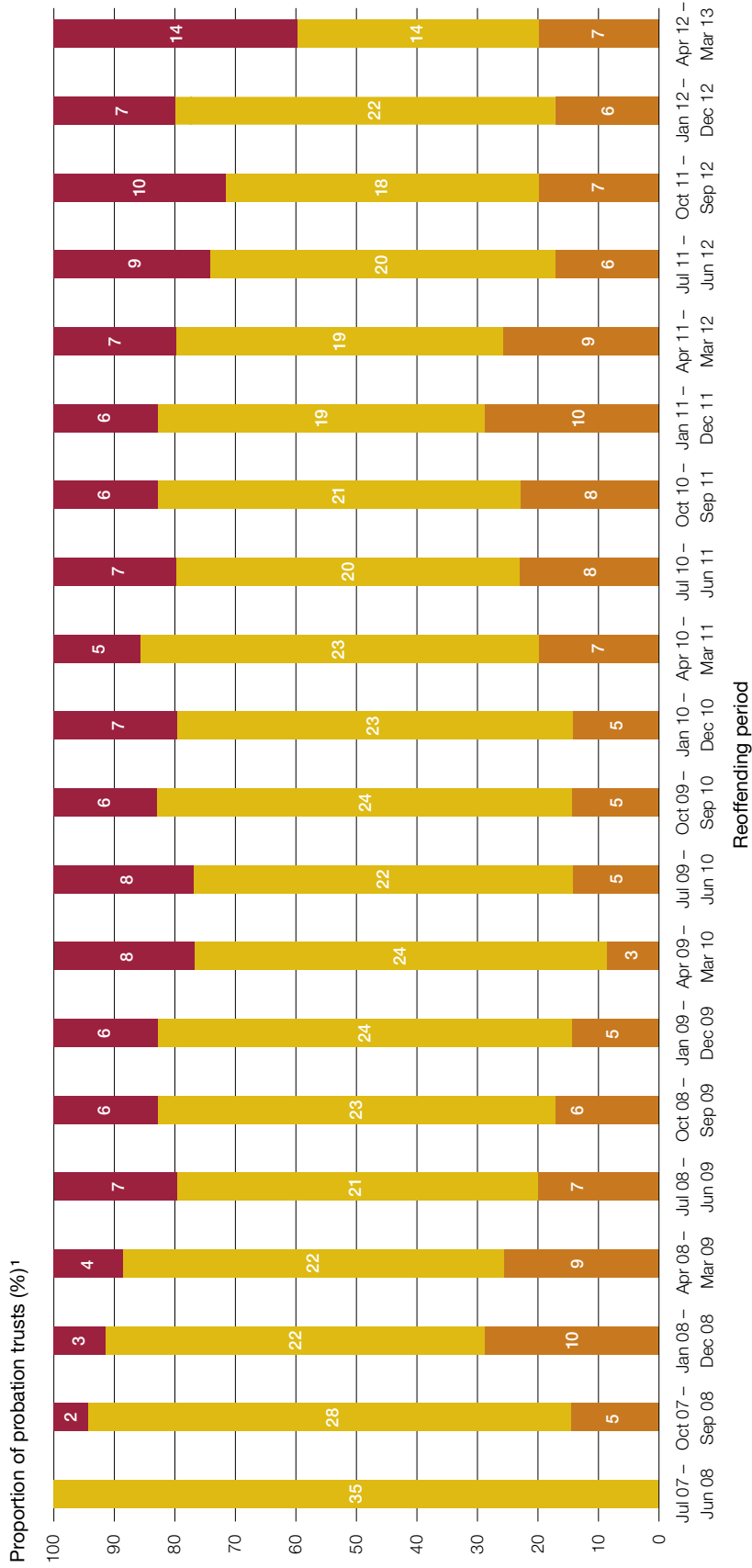
**2.17** Some key challenges in operating the System lie beyond the area of administrative efficiency, and require a good understanding of how to change human behaviour, often of marginalised groups. Having sound evidence will support joint working and operations across the System.

## Basing interventions on evidence: tackling reoffending

**2.18** Reducing reoffending is key to reducing pressure on the System, but the problem has proved resistant to intervention (**Figure 11**). Currently, in England and Wales, adults with sentences of 12 months or less are not supervised by the Probation Service upon release, although they are almost twice as likely to reoffend as prisoners serving more than a year. The Ministry intends to extend supervision to this group, as part of its Transforming Rehabilitation reforms. Probation trust contracts are expected to be terminated by 31 May 2014, with new arrangements activated immediately afterwards (see paragraph 1.13). The Ministry's research suggests that supervision after release reduces reoffending by between 14 and 20 percentage points, indicating a strong case for intervention.<sup>67</sup> However, the Justice Select Committee has raised concerns over the potential impact that this reform may have on increasing the prison population and associated costs, through more offenders being given short prison rather than community sentences.<sup>68</sup>

**2.19** HM Inspectorate of Probation and HM Inspectorate of Prisons have noted wide variations in the role, importance and effectiveness of prison offender management. In December 2013, they reported that offender management is not working in prisons because most prison staff do not understand it. Community-based offender managers, who largely do understand, have neither the involvement in the process nor the internal knowledge of prisons to make it work. The inspectorates concluded that, given the Prison Service's present capacity and the pressure of implementing Transforming Rehabilitation to deal with more offenders (paragraph 2.18), they doubted it can meet expectations.<sup>69</sup>

**Figure 11**  
Proportion of probation trusts showing change in reoffending since 2007



- Decrease
- No significant change
- Increase

**Notes**

- 1 The numbers on the bars indicate the number of trusts.
- 2 The local adult reoffending measure counts the proportion of offenders who reoffend in a three-month period. The results of four snapshots are then combined to form a rolling four quarter average.

Source: Ministry of Justice

## Extending the evidence base

**2.20** The Ministry and, previously, the Home Office have a long record of producing high quality and timely statistics on criminal justice. They have also both operated research programmes to help them identify what works in criminal justice. But policy responses to many of the challenges can be affected by a thin evidence base. In May 2013, the government selected the College of Policing to host the ‘What Works’ Centre for Crime Reduction – part of a network of centres intended to provide better evidence to guide public spending decisions. The Centre will be supported by a ‘commissioned partnership programme’ to:

- review research on practices and interventions to reduce crime;
- label the evidence base in terms of quality, cost and impact; and
- provide PCCs and other crime reduction stakeholders with the knowledge, tools and guidance to help them target their resources more effectively.<sup>70</sup>

## Using evidence as a basis for early intervention

**2.21** A number of our reports across government have shown that, by intervening early and at the right time, reactive public spending can be reduced while improving outcomes. In youth justice, there is evidence that the earlier the successful intervention, the higher the return. In 2010, we estimated that the cost of youth crime in 2009 may have been between £8.5 billion and £11 billion.<sup>71</sup> Practitioners in the youth justice system did not know which interventions had the most impact on reducing reoffending. Though there was little research published in this area, evidence from the United States suggests a benefit-to-cost ratio for one intervention of around 2.5 to 1.<sup>72</sup> The Ministry and the Youth Justice Board have subsequently supported and published additional research on youth offending.

**2.22** Although the government accepts the principle of the benefits of early action, it has taken limited steps towards implementing this because of the considerable political and practical challenges. The Home Office and the Ministry are not unusual in this respect: between them they spent around £200 million on specific early action programmes in 2011-12:<sup>73</sup> about 1 per cent of their total combined spending.<sup>74</sup> Examples of early action programmes include the Home Office’s targeted programmes based on assessed risk (e.g. anti-gang and youth violence programme, ‘Prevent’ counterterrorism measures) and the Youth Justice Board’s prevention target (reducing first-time entrants to the System) delivered in liaison with PCCs, who control the funding for the local area.

# Part Three

## Information flows and investment in information technology

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### Key issues for consideration

How, in the light of the government's ICT strategy (which aims to avoid large ICT projects that are slow to implement and at greater risk of failure), the criminal justice bodies can achieve a single system, while making the best of existing legacy technology.

How departments, agencies and local partners can develop an agreed and coherent plan for improved case preparation and better information sharing, so that the criminal justice system (the System) can deliver real efficiencies and planned cost savings.

What progress is being made to exploit technology to help the public interact with the System.

How the government is exploiting data to record and evaluate longer-term outcomes for offenders subject to different forms of intervention.

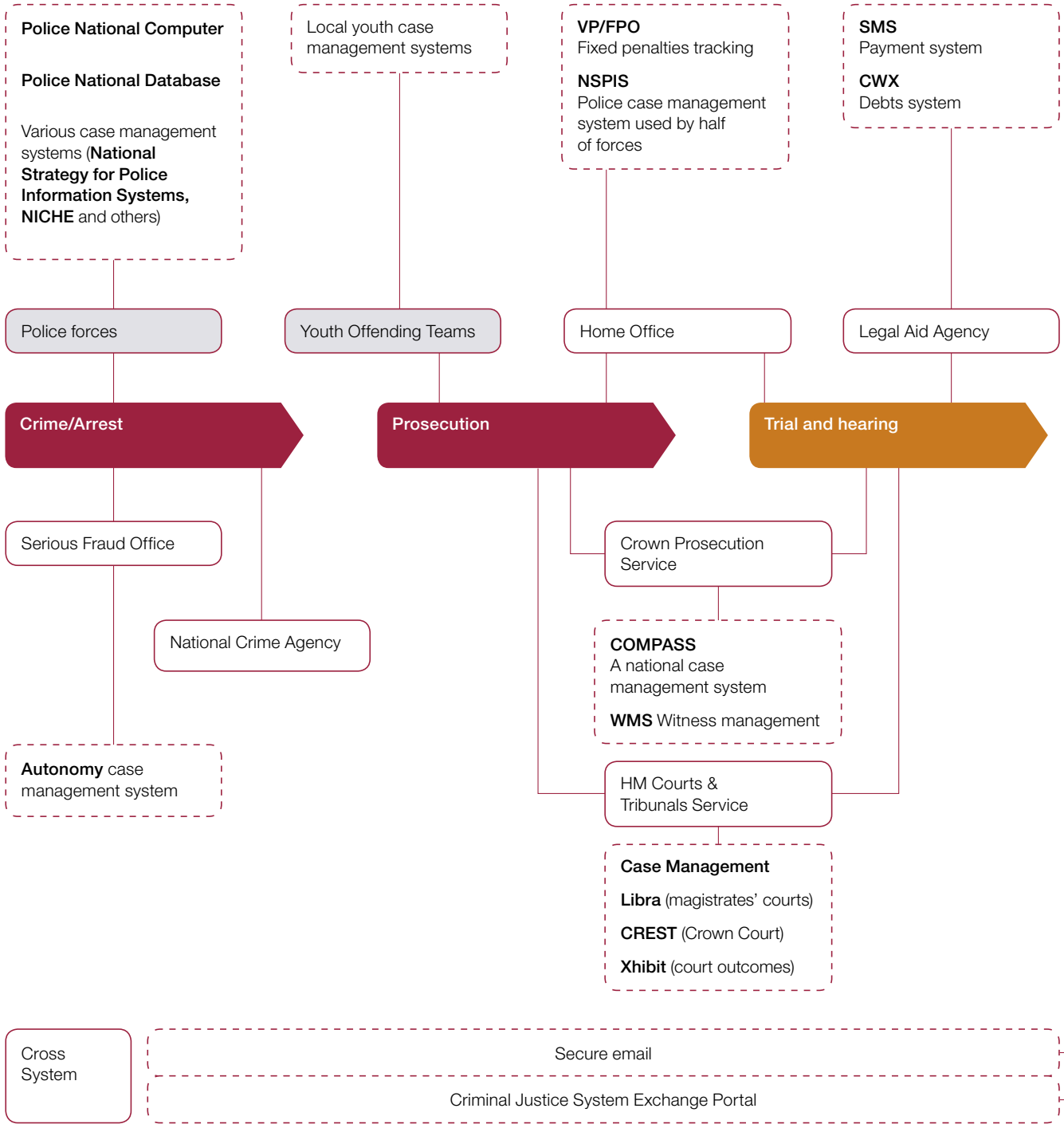
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**3.1** In this part we focus mainly on how the criminal justice participants share information. **Figure 12** overleaf identifies the main information systems used to manage the System. Key points to draw from it are:

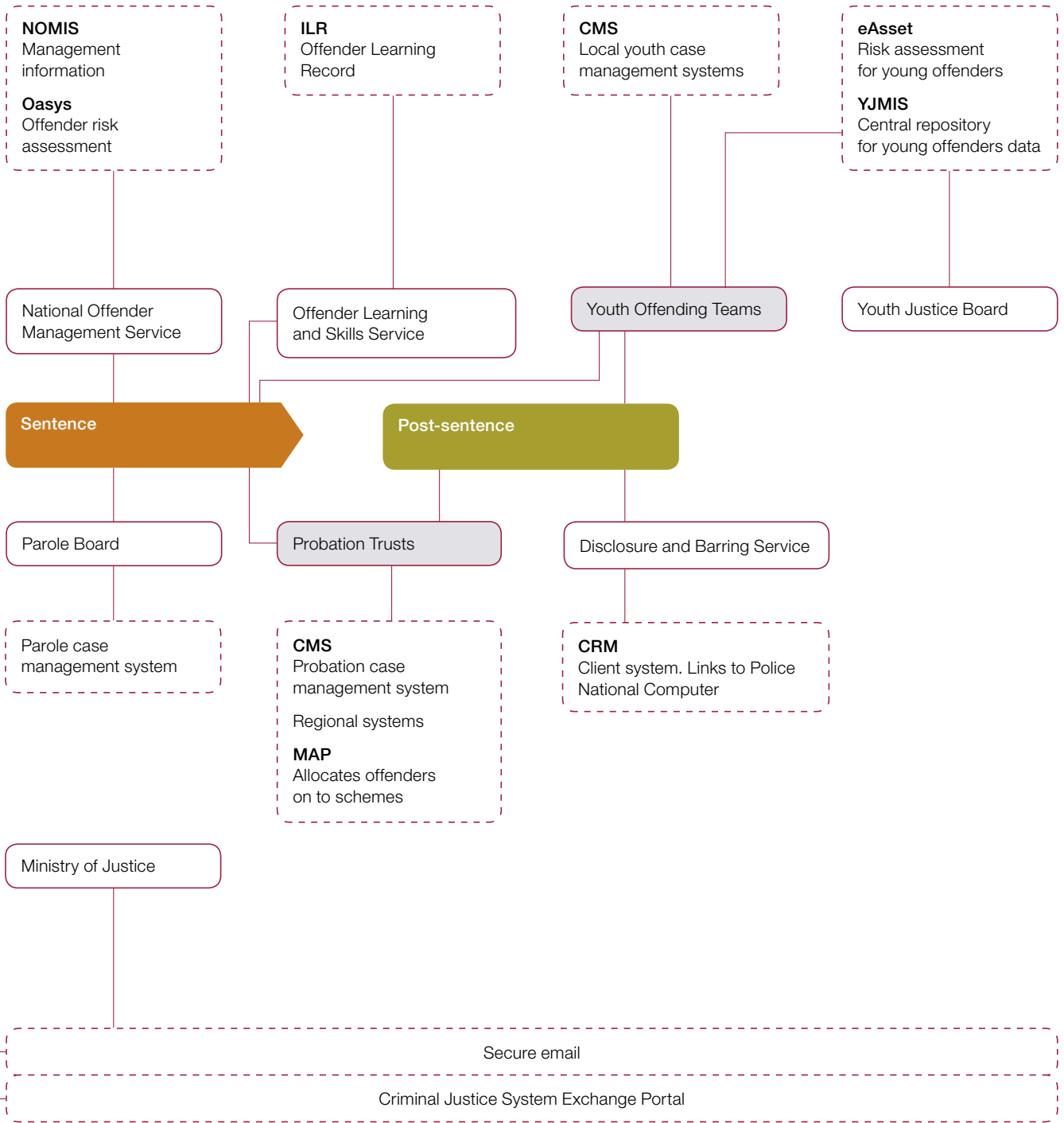
- the absence of a single case management system, which can pass offenders seamlessly from the police to the prosecution, through the courts, and to the prison and probation systems;
- how 'localised' agencies such as police forces operate a range of different systems to perform the same function, complicating change;
- separate case management systems for the magistrates' courts and the Crown Court, requiring organisations to transmit data through the government email system where available; and
- the predominance of 'closed systems' not offering online access to the public for functions such as court attendance or case progression.

**Figure 12**  
High-level overview of the criminal justice system’s operational systems

The plethora of separate case management systems in the criminal justice system requires multiple handovers and re-entry of data



Source: National Audit Office



**3.2** By the end of 2012, the government required all departments to produce a digital strategy, reflecting the central role that digital services should take in government business. The Ministry of Justice's (the Ministry's) strategy set out how it would increase the volume of services delivered digitally, rather than face-to-face, by phone or by post. It estimates that savings will be realised by reducing use of higher-cost channels while providing more efficient and convenient services for users.

**3.3** The Strategy is grouped under four themes:

- **Transforming our services** – redesigning service delivery towards digital channels as the default mode of access for users.
- **Transforming the way we work** – increasing digital capability and leadership in the Ministry, supporting flexible working and agile development of digital projects.
- **Breaking barriers to digital transformation** – through using a wider range of suppliers and 'open source' solutions (where programming code is freely available for reuse).
- **Transforming the way we engage** – by using technology to further connect civil servants with service users and to open up policymaking.

The Ministry plans to deliver four exemplar digital services by March 2015 and redesign all current services by 2018.<sup>75</sup> Its exemplar for criminal justice is a web-based portal allowing friends and families to apply for prison visits. The Home Office is introducing digital enhancements to the Disclosure and Barring Service used by employers for safe staff recruitment.<sup>76</sup> The Legal Aid Agency's client and cost management system (CCMS), which was due to go live in January 2014, was delayed due to technical issues.<sup>77</sup>

### **Case management systems**

**3.4** Each delivery partner needs access to data about individuals in the System and processes for managing the flow of cases. The major case management systems are shown in Figure 12.

**3.5** As long ago as 2000, the Committee of Public Accounts expressed concern that the police, prosecution and courts were separately inputting basic case details, resulting in duplication, error and delay.<sup>78</sup> Since then, automated data transfer between criminal justice partners has been extended,<sup>79</sup> although there is still substantial manual entry of data and systems which are not joined up. In 2009, we reported that the former HM Courts Service recognised the desirability of replacing the wide range of incompatible networks with a universal case management system, but had concluded it would be unaffordable.<sup>80</sup> Subsequently, the Crown Prosecution Service (CPS) and HM Courts & Tribunals Service committed to complete, by the end of 2013, a business case for a single information management system allowing for evidence and case information to be shared across the System, and to start delivering this in 2014.<sup>81</sup>



**3.6** Information on most criminal cases originates with police involvement, but police IT is not well positioned to provide consistent data. The 43 forces have developed individual business processes supported by bespoke systems. As a result, there are some 2,000 force systems, connected through local infrastructure and managed locally by around 5,000 staff. Our 2012 report on mobile technology in policing found that forces had chosen not to use Home Office central contracts but adopted different suppliers, and also integrated their devices with their day-to-day operations in different ways, reflecting their existing processes and IT systems. Consequently, police officers in different forces have varied levels of access to, and interaction with, local and national databases, record management systems and other basic functions such as cameras, email and diary, via their mobile devices. The programme illustrated the real challenges of achieving converged technology.<sup>82</sup>

**3.7** Limitations in case management systems risk hindering full engagement with the public, particularly victims of crime. Although most victims acknowledge they have had an immediate or reasonably quick police response to incidents, barely half consider that they were kept well informed of subsequent investigations and outcomes.<sup>83</sup> Victim Support research indicates a strong positive association between receiving support and being more likely to report a future crime.<sup>84</sup>

**3.8** There have been some developments in criminal justice information systems to help address the weaknesses described above. In particular:

- In 2006, the Ministry introduced the Criminal Justice Exchange. The Exchange Links Programme (completed in March 2009) provides high-speed, secure links between the existing case management systems across the System, and allows the criminal justice agencies to share common up-to-date case information. Links between the police and the CPS have been extended to enable pre-charge information exchange. After a selected bidder failed to deliver a replacement for Exchange, the Ministry launched a new competition in late 2013.
- The CPS's Digital Business programme seeks to move the management of cases from paper to the electronic case file. In 2012-13, the CPS planned to have fully digital prosecution working from point of arrest to both magistrates' courts and the Crown Court.<sup>85</sup> However, this depends on support from the police and courts.
- The criminal justice secure email service enables organisations involved in the criminal justice process, such as some defence solicitors, youth offending teams, barristers, local authorities and victim and witness groups to send and receive secure emails.<sup>86</sup>

- The Witness Management System enables both the police and the CPS to manage care of witnesses in joint Witness Care Units.<sup>87</sup> These Units are now fully digital in their interactions with partner agencies and use email and text where possible to communicate with victims and witnesses.
- Increased digital capture of information by police forces should provide new opportunities for automated data exchange through the System. For example, some 30 forces have joined the Home Office Digital Pathfinders programme to trial new solutions. In Hampshire Constabulary, officers complete electronic witness statements using mobile data terminals and use body-worn cameras to record footage of incidents and interviews.<sup>88</sup>

**3.9** In June 2013, ministers announced that the Ministry would roll out ‘digital courtrooms’ nationally, within a £160 million investment in police, prosecution and court information technology. This involves installing Wi-Fi, digital evidence screens and new presentation and collaboration tools into the majority of courtrooms. The investment will also provide funding for new IT software to end the reliance on paper and lay foundations for developing a common digital information platform for the System. However, in July 2013, the Lord Chancellor said that even with investment for digital working in the criminal courts secured, “there is still some way to go before we have an IT system fit for purpose across the whole (courts and tribunals) system”.<sup>89</sup> Information flows between and within organisations are still too dependent upon manual and paper processes.

**3.10** Although delivery partners have introduced or updated their systems over the last ten years, they still depend too much on paper flows and information systems do not join up. For example:

- The CPS has improved its procedures to collate promptly all the necessary information to make swift decisions on whether to charge cases.<sup>90</sup> The Criminal Justice Efficiency Programme aims for the digital transfer of all information from the police to the prosecution.<sup>91</sup> The CPS estimates that most police forces are now transferring over 90 per cent of all case files electronically.<sup>92</sup> Recent reviews by the inspectorates confirm that most case files are handled electronically, but that serious inefficiencies remain. For example, police custody records, incident logs, and crime reports, although already available electronically, cannot be similarly transferred to the prosecution, due to limitations in police IT systems. Such electronic documents have to be printed and scanned in order to be uploaded, saved on to the IT system and then transferred across to the prosecution.<sup>93</sup>
- Although the timeliness of building case files and moving files around the CPS has improved, prosecution staff overwhelmingly report that it takes significantly longer to process work digitally rather than on paper, including basic activities such as reviewing case files, due in part to difficulty finding the right documents.<sup>94</sup>

**3.11** Data are not always transferable electronically even within partner organisations, resulting in further inefficiencies.

- Ten years after magistrates' courts and the Crown Court were brought together in the same service, it is still not possible to transfer data automatically between them. For the minority of cases referred to the Crown Court, documents have to be copied and sent from the magistrates' court to the Crown Court physically or by email. The Crown Court still depends on the 24-year-old Crest system. Such obsolescent systems can be difficult to maintain and update.<sup>95</sup>
- Web-based developments provide new opportunities for online public access to the justice system, but to be efficient and robust they need to be well connected to 'back-office' systems. The National Offender Management Service is testing a new online facility to arrange prison visits. It still faces the challenge of directly linking to existing prison systems, saving staff from 'bridging' between the systems manually to arrange an expected 1.5 million visit appointments annually from 2015.
- The prisons case management system, P-Nomis, has little capacity for holding and sharing information about the education and training that prisoners have undertaken. The government plans to tackle prisoner training by merging the prison careers information and advice service into the National Careers Service. By recording offender progress made in custody, the National Careers Service will create a complete, updated record of the offender's needs and skills which would also be accessible after release from prison.<sup>96</sup>
- Out-of-date ICT systems, data errors and poor joint working hamper the enforcement of confiscation orders to seize the proceeds of crime. HM Courts & Tribunals Service's regional confiscation units have to enter information manually into multiple systems. There are also numerous data errors, particularly in inputting information after court hearings.<sup>97</sup>

**3.12** Creating a 'digital CJS' is a ministerial priority and is an integral part of the *Transforming the CJS* strategy and action plan. It includes:

- the criminal justice efficiency programme to deliver the 'digital court', removing paper from the court system;
- the Common Platform Programme – a technology enabled way of bringing essential information about crime together, so it can be used by criminal justice practitioners when and how they need it;
- implementing open standards for CJS technology to ensure future interoperability of systems; and
- a common information data store to provide police with the scale of storage needed for all data relevant to a case.

**3.13** Case management systems can also hinder financial reporting. HM Courts & Tribunals Service (HMCTS) collects financial penalties imposed by the courts and the police and gives the proceeds to relevant parties. The Libra system operates in real time, which is a key requirement of the operational function, but it cannot report balances or payment transactions retrospectively. It is difficult and inefficient to use the system for financial reporting, but HMCTS has been developing its financial reporting capability for its Trust Statement since the requirement to produce it was introduced. Although the Comptroller and Auditor General qualified his opinion on the 2012-13 Trust Statement, he recognised that HMCTS had made progress in improving financial reporting.<sup>98</sup>

**3.14** HMCTS has been considering the scope to enter a commercial partnership which would bring further commercial experience, innovation and investment in technology. The aim is to automate many of the manual administrative processes and, in turn, reduce the cost of enforcing fines and increase the amount of fines that are paid.

### **Security in data transfer**

**3.15** The public can be at risk if trial outcomes are not recorded promptly on the Police National Computer. A new system was introduced in 2009,<sup>99</sup> following the 2004 Bichard Inquiry into the Soham murders, and was expected to result in 80 per cent of trial outcomes being transferred automatically on to the Police National Computer.<sup>100</sup> In 2009, the former HM Courts Service acknowledged that the police still had to input some information manually, and it has since worked with partners to increase the amount that can be transferred automatically. In 2013, the Ministry estimated that over 80 per cent of case results are transferred automatically for nearly all forces.

**3.16** Case management for young offenders is managed using two stand-alone systems. As there is no automatic transfer of information from e-Asset to Oasys, when an offender becomes an adult, details of case histories, education and training, and any special needs are not transferred. The Ministry has advised us that a system to enable transfers is being tested.

**3.17** Unlinked information systems increase risks for data protection. In October 2013, the Information Commissioner's Office (ICO) fined the Ministry £140,000 after a serious data breach led to a file on all prisoners at HMP Cardiff being emailed to three inmates' families. Sensitive details included names, ethnicity, addresses, sentence length, release dates and coded details of the offences carried out. The same error had occurred twice previously. ICO's investigation found problems in how prisoners' records were handled, with unencrypted disks regularly used to transfer large volumes of data between the prison's two separate networks.<sup>101</sup>

# Appendix One

## Our audit approach

**1** This landscape review provides an overview of the operation of the criminal justice system (the System) in England and Wales, considering the main challenges to an efficient and effective System and whether current reforms address the issues identified. We did not conduct new work on the System but compiled findings from a range of authoritative published sources including:

- our own value-for-money studies, memoranda and briefings to Parliament and reports on relevant financial statements;
- reports by and evidence to the Committee of Public Accounts;
- the work of HM Inspectorates, of Constabulary, Probation, Crown Prosecution and Prisons;
- official statistics, government publications and legislation;
- media resources; and
- academic research.

**2** We also interviewed relevant departmental officials to confirm the position on matters where published resources were not available.

**3** Research identified more material than could be accommodated in a concise overview report suitable for reporting to Parliament. And in many areas of the System, significant changes are under way, the outcome of which is too early to assess. We therefore selected for inclusion material which has a material bearing on the efficiency and effectiveness of the justice system including:

- the efficiency with which criminal cases are passed through the System, from offence to prosecution, to sentence and rehabilitation; and
- the scope to manage the case burden on the System, for example, through reducing rates of offending and reoffending.

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