

**PRISON POLICY BRIEFING**  
**Serious, Violent and Persistent Offenders**  
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### **Summary**

The Government has frequently said that prison is for serious, violent and persistent offenders, but a study of the latest official statistics shows that many serious, violent and persistent offenders are not being imprisoned.

### **Introduction**

Last October in a major speech at the RSA Jack Straw, Secretary of State For Justice, said that 'custody should be reserved for the most violent, dangerous and prolific offenders'. This policy was introduced after the 2003 Criminal Justice Act with the intention of reducing the use of prison and in the expectation of finding alternatives for less serious offenders. However, appraisal of the evidence shows that some 'violent, dangerous and prolific offenders' are not being sent to jail?

### **The risk of detection, conviction and punishment**

#### **Detection**

It is generally accepted that, with the possible exception of crimes involving an emotional outburst or momentary loss of control, the higher the risk of detection the less likely it is that offenders will commit crimes. A table in the annual publication Criminal Statistics allows us to compare the risk of detection, conviction and imprisonment from 1951 to 2007. In 1951 the detection rate was 47%. It fell to a low of 23% in 2003 before recovering slightly to 28% in 2007. This rate is by comparison with police recorded crime. If compared with crime reported to the British Crime Survey (BCS) the proportion is substantially lower.

#### **Conviction and Punishment**

However, once detected the severity of punishment also makes a difference to offending behaviour. If every captured criminal were given an absolute discharge the deterrent effect of arrest by the police would be small. More important still, sentences are acknowledged to have far more than a deterrent effect. A punishment also signals the degree of social disapproval, which in its turn influences individual behaviour. Moreover, prison sentences protect the public. As Jack Straw remarked in his 2008 RSA speech, at the very least custody gives potential victims a 'respite' from offenders.

The Home Office regularly reports the detection rate as a percentage of total recorded crime. However, many crimes are carried out by more than one person and so the number of offenders in a given 12-month period will be higher than the number of recorded or detected crimes. In 2007, for example, 1,374,000 offences were detected but 1,779,000 offenders were found guilty or

cautioned. Nevertheless, it is useful to compare the number of offenders convicted with the number of recorded crimes and to express the number imprisoned as a percentage of the total number of recorded crimes. As Table 1 shows, fewer than 2 in every 100 recorded crimes lead to immediate custody. But how does the system deal with serious, persistent and violent offenders?

### **Serious offenders**

Indictable crimes are the most serious offences that may have to be tried in a Crown Court.<sup>1</sup> In 2007, 23.7% of those sentenced for an indictable crime received an immediate custodial sentence. How does this rate compare with earlier times? The proportion given custody fell from about 21% in the early 1950s to 12-13% in the early 1970s. Between 1990 and 1993 it was about 14-15%, after which it was increased sharply by the new Home Secretary, Michael Howard, to 25% by 1995.<sup>2</sup> The peak of 25.3% was reached in 2002 and has subsequently fallen to 23.7% in 2007.<sup>3</sup>

In the peak year of 2002 85,151 criminals were sent to jail for indictable crimes, whereas in 2007 only 74,037 were imprisoned. If the sentencing standards in force in 2002 had been applied in 2007, well over ten thousand criminals would have been imprisoned instead of being allowed to remain free to endanger members of the public.

However, these figures do not take account of cautioning, which has also fluctuated over time. If the number given immediate custody is compared with all those convicted or cautioned for indictable crimes in 2007 the proportion is only 14.3%, having fallen from 17.7% in 2002. Put another way, and as shown in Table 2, under 15 in every 100 criminals who are cautioned or convicted are given immediate custody. The fall reflects an increase in the use of cautioning from 143,000 occasions in 2002 to 205,000 in 2007 but also a significant switch to giving suspended prison sentences from 0.9% of sentences in 1997 to 8.7% in 2007, as shown in Table 3.

### **Burglary**

Burglary is among the most serious crimes. As Lord Igor Judge remarked in the Court of Appeal in January 2009: 'Something precious is violated by burglary of a home and those who perpetrate this crime should be sentenced and punished accordingly... The principle which must be grasped is that when we speak of dwelling house burglary we are considering not only an offence against property, which it is, but also, and often more alarmingly and distressingly, an offence against the person.'<sup>4</sup>

Parliament stipulated in 2000 that on a third or later conviction for household burglary an offender should receive a minimum of three years. However, only 21% were given that sentence in 2007. The others were given shorter custodial sentences and 15% were not given custody at all. Judges are rightly allowed to use discretion in 'exceptional circumstances' but this reasonable stipulation has been abused by some judges who are failing in their duty to protect the public. Moreover, the overall custody rate for burglary has been falling since 1997. In that year 45.3% of

convicted burglars were given immediate custody. The proportion peaked at 51.2% in 2000 and has since fallen to a low of only 39.2% in 2007.<sup>5</sup>

But perhaps many of those convicted of serious crimes are first-time offenders and persistent criminals are dealt with more appropriately. What is the evidence?

### **Serious and persistent offenders**

First, how many previous convictions or cautions should be considered evidence of persistent offending? It is important to remember that convictions and cautions only take account of occasions on which offenders are brought to justice, perhaps one crime in every five discovered by the British Crime Survey (BCS).<sup>6</sup>

A new analysis of figures from the Ministry of Justice shows that many serious and frequent offenders are not being imprisoned. From time to time the criminal history of offenders has been made available and the latest report from the Ministry of Justice for 2007 shows sentences for offenders classified according to their previous convictions or cautions.<sup>7</sup> Offenders who had 11-14 previous convictions or cautions were given custody in only 34% of cases when they were convicted of a serious (indictable) crime. When they had 15 or more previous convictions or cautions only 40% were given custody. Or, put another way, hardened offenders with 15 or more convictions or cautions had a 60% chance of avoiding jail, even when convicted of a serious crime.

### **Violent Offenders**

Only 29.8% of those sentenced for 'violence against the person' in 2007 received custodial sentences. The immediate custody rate for 'violence against the person' has remained roughly static at around 30% since 1997.<sup>8</sup>

Robbery is one of the most serious violent crimes and includes street mugging. Alarming the custody rate has fallen since 1997, when it was 71.6%. It reached a peak of 76.1% in 2002 but has since fallen to only 53.8% in 2007.<sup>9</sup>

**Table 1**  
**Risk of Detection, Conviction and Imprisonment 1951 - 2007 (All Recorded Offences)**

Thousands and percentages

	All recorded crimes	No of recorded crimes detected	% of recorded crimes detected	No. of offenders cautioned	No. of offenders found guilty	No. of offenders cautioned or found guilty	No. of offenders sentenced to immediate custody	% of offenders found guilty given immediate custody	% of all offences resulting in immediate custody
1951	525	247	47%	*	723	723	33.7	4.7%	6.4%
1961	807	361	45%	70	1,152	1,222	45.5	3.9%	5.6%
1971	1,666	775	47%	109	1,688	1,797	56.3	3.3%	3.4%
1981	2,794	1,056	38%	154	2,105	2,259	74.6	3.5%	2.7%
1991	5,075	1,479	29%	279	1,519	1,796	60.1	4.0%	1.2%
2001	5,527	1,291	23%	230	1,350	1,580	106.3	7.9%	1.9%
2002	5,899	1,389	24%	225	1,421	1,647	111.6	7.9%	1.9%
2003	6,014	1,406	23%	242	1,491	1,733	107.6	7.2%	1.8%
2004	5,641	1,441	26%	256	1,549	1,804	106.3	6.9%	1.9%
2005	5,557	1,516	27%	299	1,484	1,783	101.2	6.8%	1.8%
2006	5,428	1,374	25%	350	1,421	1,771	96.0	6.8%	1.8%
2007	4,951	1,374	28%	363	1,416	1,779	95.2	6.7%	1.9%

Source: Criminal Statistics 2007, Table 1.1, Table 1.2, Table 4.9

Criminal Statistics 2001, Table 1.1

Criminal Statistics 1993, Table 7A

Criminal Statistics 1981, Table 7.15

Criminal Statistics 1951, 1961, 1971, 1991

Note: The Government adjusts historic crime figures from time to time, usually to make them more comparable with the latest statistics. In such cases we have used the most recent official figure.

**Table 2**  
**Risk of Detection, Conviction and Imprisonment 1951 - 2007 (Indictable Crimes)**

				Thousands and percentages					
All recorded crimes	No of recorded crimes detected	% of recorded crimes detected	No. of offenders cautioned for indictable offences	No. of offenders found guilty of indictable crimes	No. of offenders cautioned or found guilty - indictable	No. of offenders given immediate custody - indictable	% offenders found guilty given immediate custody - indictable	Immediate custody as % of cautions and convictions - indictable	
1951	525	247	47	*	125	125	26.5	21.2%	*
1961	807	361	45	25	182	207	35.2	19.3%	17.0%
1971	1,666	775	47	77	342	419	45.5	13.3%	10.9%
1981	2,794	1,056	38	104	465	568	69.3	14.9%	12.2%
1991	5,075	1,479	29	180	347	527	48.9	14.1%	9.3%
2001	5,527	1,291	23	144	323	468	80.3	24.8%	17.2%
2002	5,899	1,389	24	143	337	481	85.1	25.3%	17.7%
2003	6,014	1,406	23	151	335	486	80.8	24.1%	16.6%
2004	5,641	1,441	26	156	318	474	79.9	25.1%	16.9%
2005	5,557	1,516	27	183	308	491	76.3	24.8%	15.5%
2006	5,428	1,374	25	204	313	517	73.5	23.5%	14.2%
2007	4,951	1,374	28	205	313	518	74.0	23.6%	14.3%

Source: Criminal Statistics 2007, Table 1.1, Table 1.2, Table 4.9

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Criminal Statistics 1993, Table 7A

Criminal Statistics 1981, Table 7.15

Criminal Statistics 1951, 1961, 1971, 1991

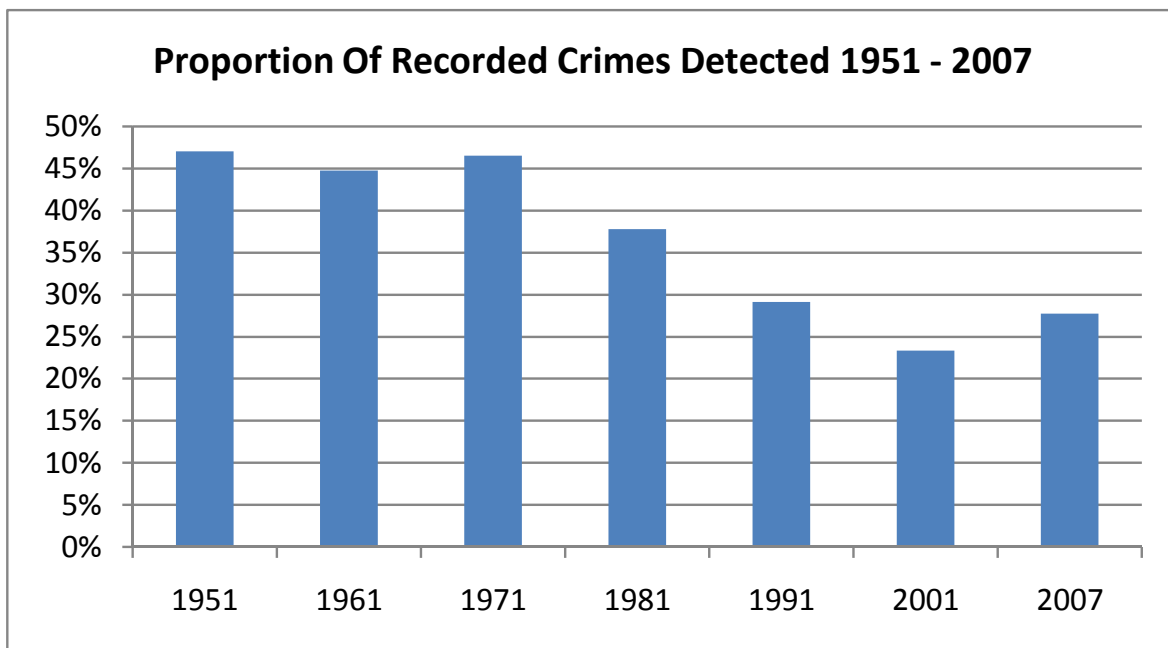
Sentencing Statistics 2007, Table 1.2

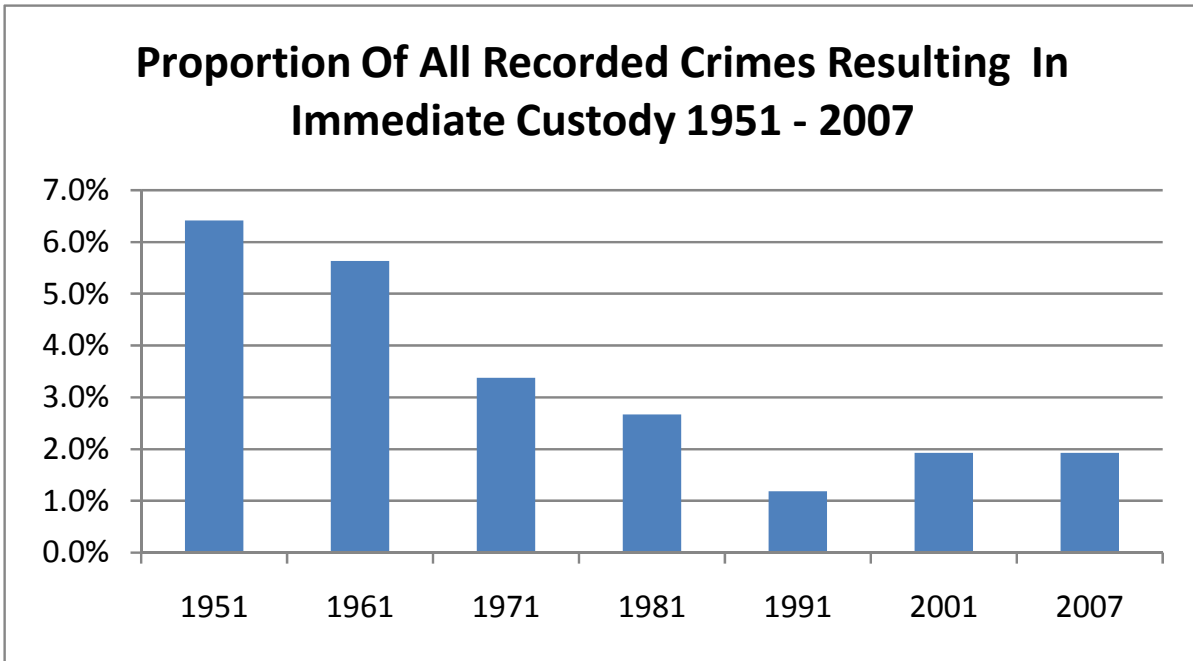
Note: The Government adjusts historic crime figures from time to time, usually to make them more comparable with the latest statistics. In such cases we have used the most recent official figure.

**Table 3**  
**Suspended prison sentences as % of convictions for indictable crimes 1997-2007**

	Immediate custody (%)	Suspended custody (No.)	Convictions for indictable crimes	Suspended prison sentences as % convictions for indictable crimes
1997	22.5	2823	318849	0.9%
1998	22.7	2834	341102	0.8%
1999	23.4	2547	341664	0.7%
2000	24.8	2453	326210	0.8%
2001	24.8	2139	323203	0.7%
2002	25.3	1963	336744	0.6%
2003	24.2	2055	333930	0.6%
2004	25.2	2143	316937	0.7%
2005	24.9	5610	306598	1.8%
2006	24.3	20799	302537	6.9%
2007	23.7	27254	312258	8.7%

Source: Sentencing Statistics 2007, Table 1.2





## Notes

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- <sup>1</sup> Some offences are 'triable either way', which means they can be heard either before magistrates or in a Crown Court.
- <sup>2</sup> Davies, M., 'Sentencing trends and public confidence' in Murray, C., *Does Prison Work?*, London: Civitas, 1997.
- <sup>3</sup> Sentencing Statistics 2007, Table 1.2.
- <sup>4</sup> Guardian, 17 January 2009.
- <sup>5</sup> Sentencing Statistics 2007, Table 1.2.
- <sup>6</sup> In 2007 there were 1.779m convictions or cautions out of 10.143m BCS crimes – about 18%.
- <sup>7</sup> A caution involves admitting a crime, which is then recorded as a detection. Offenders suffer no punishment, although conditions may be attached.
- <sup>8</sup> Sentencing Statistics 2007, Table 1.2.
- <sup>9</sup> Sentencing Statistics 2007, Table 1.2.