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# Window of Opportunity to Deliver Better Justice Sector Outcomes over the Long Term

The justice sector contributes to society by protecting civil and property rights, as well as providing a fair and effective way to resolve disputes. In the criminal justice area, the sector aims to:

- maintain law and order, focusing on minimising harm and victimisation;
- bring perpetrators to justice with appropriate punishment;
- provide rehabilitation for offenders to reduce reoffending.

The question is how to deliver these aims in a way which maximises the benefits to society and efficiency of the sector.

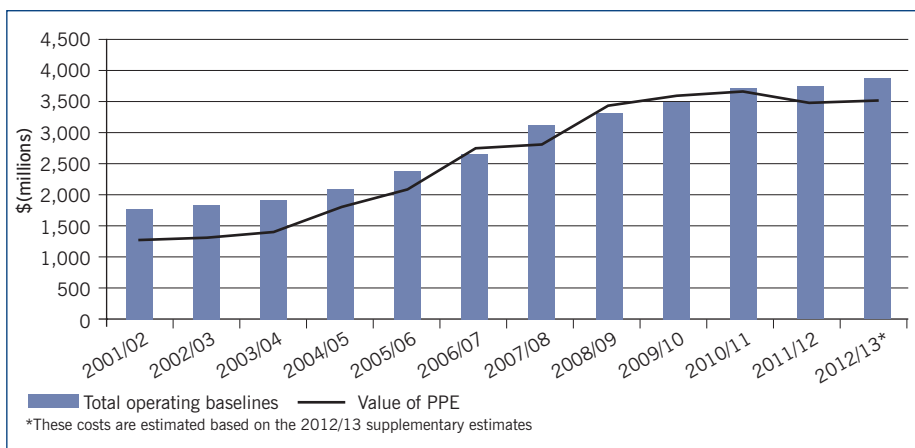
The criminal justice system is a pipeline. Individuals enter into the system once arrested and prosecuted, managed by the police. From there they move into the court system, administered by the Ministry of Justice, and potentially on to the Department of Corrections which manages offenders with prison and community sentences. Decisions by one agency, for example to prosecute more people, have significant operational and resource impacts on other agencies in the system.

Contrary to what many people might think, New Zealand's recorded crime rate has been falling since the early 1990s (New Zealand Police, 2011/12). This crime rate reduction is similar to trends around the world. We are not sure of the exact reasons for this fall in the crime rate, although a greater focus on crime prevention may have helped. Another factor that appears to be important is the changing age profile of the population. This may have greater impacts into the future as the proportion of young men in the population decreases.

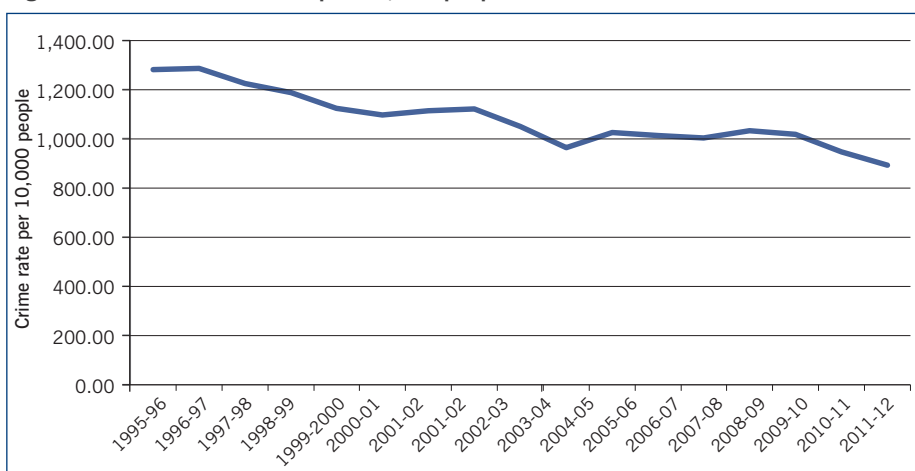
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**Figure 1: Justice sector operating costs and value of physical assets (measured by property, plant and equipment (PPE)) since 2001/02**



**Figure 2: Recorded crime rate per 10,000 people from 1995/6 to 2011/12**



This crime rate reduction has only recently been translated into a reduction in numbers entering the criminal justice pipeline and forecast prisoner numbers. But, as a result, the outlook for the justice sector has dramatically improved in the past three years.

The Treasury’s 2009 Statement on the Long-Term Fiscal Position portrayed a justice sector that, despite stable rates of crime, was experiencing rapid cost escalation.<sup>1</sup> The statement argued that the fiscal and social costs of increased imprisonment were not sustainable or acceptable. In contrast, this article presents a very different story. The justice sector now has a window of opportunity to deliver better outcomes for New Zealanders and to become financially sustainable. The key issue facing governments and the justice sector is how best to use the falling crime rate and numbers entering the justice sector pipeline to minimise harm and reduce the real costs of the sector. These

considerations need to include investing in interventions before people come into contact with the criminal justice sector. For example, interventions delivered in health, housing, education and welfare could have a significant effect on the justice sector’s goals.

**Spending on the justice sector has doubled in the last ten years**

Government spending on the justice sector (criminal justice makes up around 80% of total sector expenditure) rose steeply over the last decade, from \$1.8 billion in 2001/02 to \$3.9 billion in 2012/13 (based on the 2012/13 supplementary estimates). This is a 66% increase when price rises are taken into account (see Figure 1) and represents over 5% of core Crown spending and about 1.8% of GDP. The value of the sector’s physical assets (as measured by property, plant and equipment) has increased by 280%, from \$1.3 billion to \$3.5 billion between 2001/2 and 2012/13. Some of the increased expenditure on property over

the last decade has been in response to the growth in numbers entering the criminal justice pipeline, as noted above (for example, four new prisons have been built since 2005).

The rise in spending over the past decade was not due to an increase in recorded crime. According to the New Zealand crime statistics for 2011/12, crime rates actually fell 9.6% between 2001/02 and 2011/12. Figure 2 shows the reduction in crime rate since 1995/6 (New Zealand Police, 2011/12).

In contrast, more people flowed through the justice sector pipeline. The rise in costs appears to be the result of the policy and operational choices made in response to crime, including:

- the introduction of longer prison sentences with higher hurdles to achieve parole (changes to the Parole Act 2002 have increased the proportion of sentences completed from around 66% to 72.5%);
- increases in the number of police officers, with downstream impacts such as higher numbers of criminal court cases;
- high fixed costs associated with an asset-intensive delivery model.

**Numbers entering the criminal justice pipeline are now falling**

For the first time in a decade, the numbers entering the criminal justice pipeline fell slightly in 2010/11, and they are forecast to fall by 16.7% to 2022. Prisoner numbers are also expected to fall, albeit less dramatically, to around 8,100 prisoners (a 6.7% reduction) to 2022. Figure 3 shows the turnaround in prisoner number forecasts between 2009 and 2012.

The reduction in numbers entering the pipeline and the flattening of prisoner numbers is a major shift from previous forecasts.

The reason for the reduction in numbers entering the criminal justice pipeline is not entirely clear. However, new crime prevention approaches by the police and choices not to prosecute for some types of low-level offending appear to be having a big impact. Prisoner numbers are forecast to ease by a smaller amount than the fall in prosecutions. This is because many of the offences

diverted from court are at the lower end of the spectrum and therefore unlikely to attract a prison sentence. A key question is whether the changes seen over the past two years will be sustained or whether the previous trend of rising numbers entering the criminal justice system and increasing prisoner numbers will return.

Despite the overall reduction in crime, there has been an increase in certain types of crime. For example, illicit drug offences have increased by 5.1% in the last year. This may represent a change in focus and more effective police operations. However, to sustain the overall reduction in crime the sector will need to remain vigilant and adapt its response to match the changing composition of crime.

#### Who are the people in the criminal justice system?

Certain groups of New Zealanders are over-represented in the criminal justice system. Figure 4 shows the imprisonment rate by age for Māori and non-Māori.

In 2011, 39% of the prison population was under 30 years of age (Department of Corrections, 2011). Māori are over-represented both as victims and as perpetrators of crime. Over half the prison population identify themselves as Māori, compared to 14.6% in the general population (Statistics New Zealand, 2006).

The prison population also has significantly higher rates of mental illness and substance abuse than the general population. When surveyed in 1999, nearly 60% of inmates had 'at least one personality disorder', and 90% of those with a disorder were also suffering from substance abuse (Department of Corrections, 2007).

#### Future population changes may help reduce the rates of crime

Unlike spending on health and retirement income, the demand for spending on criminal justice services is unlikely to increase as the population ages. Indeed, the crime rate may decrease further as the population ages, which should help reduce numbers entering the criminal justice system. Young men are the largest offender group. In 2011, 43.6% of all sentences (custodial and non-custodial)

Figure 3: The 2009 and 2012 justice sector prisoner number forecasts

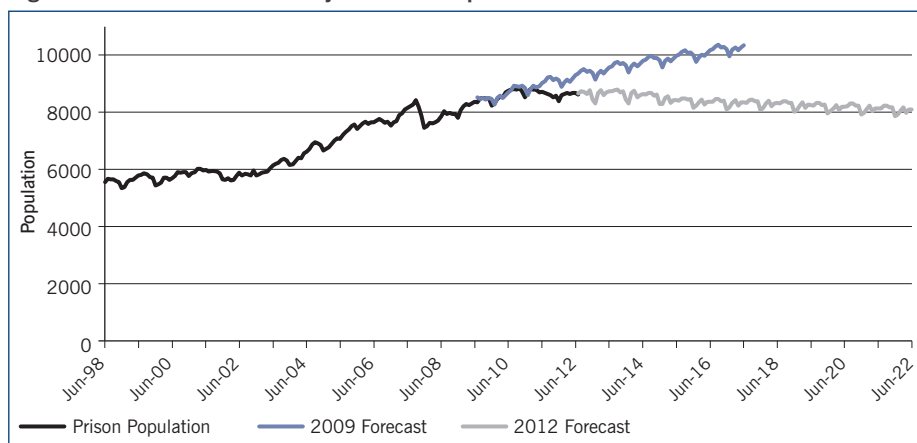
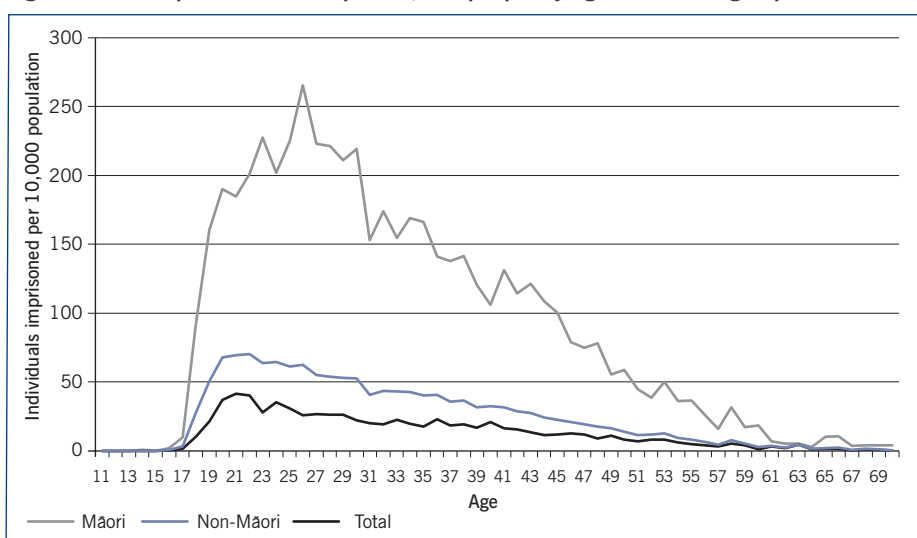
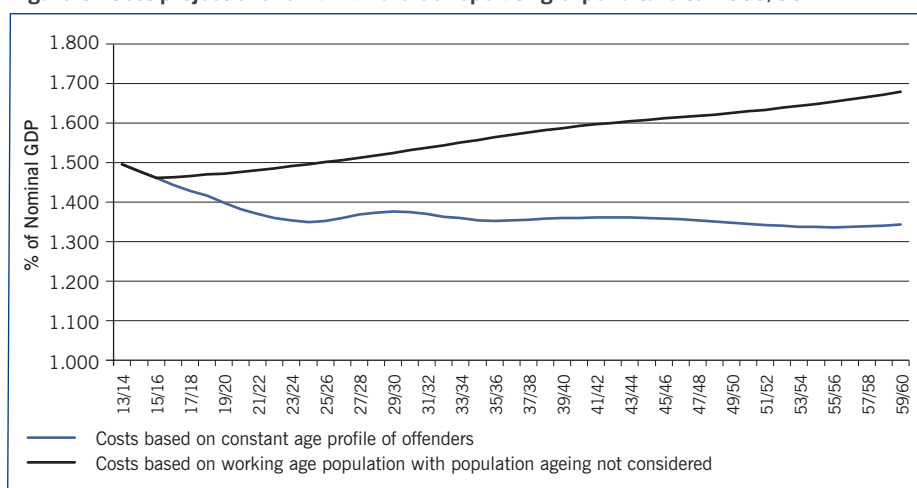


Figure 4: The imprisonment rate per 10,000 people by age and ethnic group



Source: Ministry of Justice data

Figure 5: Cost projections for law and order operating expenditure to 2059/60



were handed to young men aged 17–30 (for men aged 17–20 it was 12.7% of sentences) (Statistics New Zealand, 2012). The smaller proportion of the population in younger age groups over the next 40 years could see a further reduction in crime rates.

We are uncertain if this fall in crime will reduce justice costs. As noted above,

justice sector costs are strongly dependent on policy and operational choices, and less dependent on the levels of crime. However, if the assumed reduction in the crime rate comes to pass, this could reduce justice sector costs – relative to the situation where the population does not age – by a maximum total of \$80

billion between 2011/12 and 2059/60 (the ‘demographic dividend’).

Figure 5 shows the expenditure on law and order projected to 2060 as a proportion of GDP under two scenarios:

- a constant age profile of offenders as the population ages (blue line);
- costs increase based on spending assumptions aligned to the working-age population (the potential reduced costs from population ageing are not included).

However, the size of this demographic

successful in further reducing crime and numbers entering the criminal justice system, it might be possible to reprioritise spending from law and order to other priority areas, or to reduce taxes or debt.

#### **Making the most of the current window of opportunity**

The current and expected reduction in crime and fall in numbers entering the criminal justice pipeline creates an opportunity for the justice sector. Resources previously needed to keep up

income, housing, education and health) can help support people outside a life of crime.

- *Delivering better public services through modernisation and reinvestment*

The policy and operational settings matter hugely in terms of achieving improved outcomes, including reducing harm and numbers in the criminal justice system. Reduced harm and numbers of victims would be a good result in itself, but the sector would benefit further from translating this into savings – for example, by closing buildings that are under-utilised. The savings and resources freed up can be redeployed into areas that will deliver even better results. If the savings are cashable, they could also be used in other areas of public spending, or to reduce taxes or government debt.

## **Effective policy and operational settings should help to reduce the harm caused by illegal activities. They will also reduce the number of people in each part of the criminal justice pipeline.**

dividend is uncertain. Various factors could reduce it:

- the age profile of offenders may rise in line with the general population: this would result in no reduction in crime due to the changing average age of the population;
- further rural–urban migration may increase crime because of the greater concentration of the population in urban centres;
- income inequality and social deprivation may increase, which could lead to greater crime;
- societal preferences may change: as the population ages, society may place more value on maintaining public safety and therefore seek to increase the amount of spending on law and order;
- wage cost pressures and expensive service delivery models based on fixed assets may reduce the impact of any cost decreases resulting from lower crime rates.

While the factors mentioned above may reduce the potential demographic dividend, the justice sector will not face pressures for increased spending due to an ageing population. If the sector is

with increasing demand can be used to improve services and increase efficiency instead.

The sector can use this opportunity to deliver a ‘virtuous cycle’ (depicted in Figure 6). The virtuous cycle is the result of two elements:

- *Policy and operational settings that reduce crime and reoffending*  
The sector is thinking about other ways to measure performance other than the number of people flowing through the system. This change of focus may have a significant effect on the policy and operational settings in the sector, as well as spending patterns and interventions delivered. For example, if the sector focused on minimising harm and victimisation prior to and along the criminal justice pipeline, it may choose to spend its resources differently and make changes to prosecution, sentencing and parole policies.

Looking at how the sector can help support other agencies deliver interventions before contact with the criminal justice system is likely to help them deliver their results. For example, this may include considering how the social sector (e.g. work and

#### **The virtuous cycle: policy and operational settings**

As discussed above, the costs of the criminal justice sector are strongly influenced by policy and operational settings. The government and justice sector agencies have choices about how these settings are calibrated in order to minimise harm to New Zealanders and maximise the benefits of the sector. Some of these choices include:

- *social sector interventions*: how the social sector can deliver interventions that reduce harm and the demand for criminal justice services;
- *dealing with at-risk groups*: how the sector works with victims to reduce their vulnerability to further offending, and how it manages those at risk of becoming offenders;
- *apprehensions*: when and how police apprehend offenders;
- *prosecutions*: how the police use prosecutions effectively to reduce harm and victimisation as well as delivering the best outcomes for the victim and offender;
- *sentencing*: the court sanctions given to offenders, and the balance between penalties and other expectations or requirements such as participation

in restorative justice and other rehabilitation programmes;

- *rehabilitation*: how much the sector should invest in rehabilitation and which programmes are most effective;
- *parole*: how to ensure that prisoners are prepared for parole hearings and supported upon release to live law-abiding lives.

There is also a need to consider interventions before people come into contact with the criminal justice system.

**How the virtuous cycle works: benefits from reduced numbers in the system**

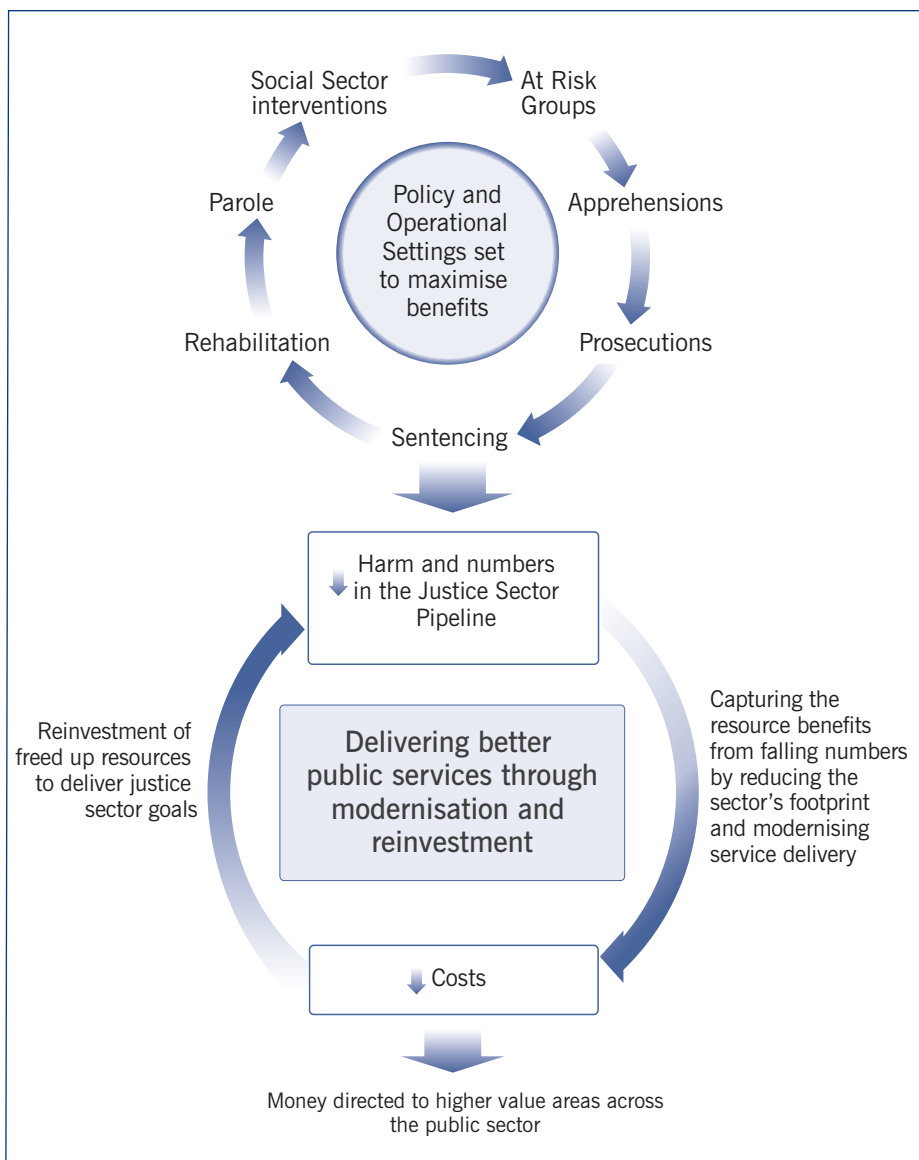
Effective policy and operational settings should help to reduce the harm caused by illegal activities. They will also reduce the number of people in each part of the criminal justice pipeline.

As discussed, however, falling numbers entering the justice sector pipeline will not automatically reduce costs. New Zealand and the sector would benefit from being able to translate reductions in court appearances and prisoner numbers into freed-up resources (e.g. staff who can be redirected to other activities across the sector) and cashable savings (e.g. by closing under-utilised buildings). The government and justice sector have choices about how to use the freed-up resources. They can be reinvested into further improving outcomes within the justice sector. Alternatively, any cash savings could be taken out of the sector and used in other areas of public spending (which may reduce crime indirectly) or to reduce taxes or public debt.

**Potential actions to help deliver on the opportunities**

The virtuous cycle will not happen automatically. The decisions in each part of the cycle involve a number of different players, some of whom are outside the sector (e.g. charity groups and other social sector departments) or independent (e.g. judges), and may involve competing priorities and interests. Consensus across the justice sector, the social sector and the wider public about how best to deliver the sector's aims of a safe and just society is required. To help produce the virtuous cycle, the sector could benefit from:

**Figure 6: The virtuous cycle**



**Collaborating even more to achieve results**

The sector has come a long way over the past three years in terms of working together more closely to deliver better services to the public. Staff in the justice sector agencies work well together on the front line, sharing information and coordinating activities to improve local results. At the senior level, the chief executives of the three large sector agencies (the New Zealand Police, Ministry of Justice and Department of Corrections) have established a Justice Sector Leadership Board that is responsible for setting overall strategy and goals for the sector and monitoring progress towards these. This collaboration improves decision-making and can facilitate better prioritisation of resources across the sector.

There is a strong appetite to achieve further collaboration, including on the front line: for example, justice sector agencies will co-locate in a justice and emergency services precinct in Christchurch. There are additional opportunities to embed a more collaborative sector approach, including establishing shared goals for capital investment and joint capital planning, more collaboration amongst the sector's policy groups, and prioritisation of funding across the sector to where it achieves the best return.

**Focusing on the most effective interventions to reduce crime, based on evidence**

By better exploiting information the sector already has about who commits particular types of crimes, when and where



it is already achieving better outcomes for society. However, there is potential to improve outcomes even further by adopting an approach which ensures that the benefits realised from falling volumes are re-invested across the criminal justice pipeline to areas that provide the greatest benefits. This may include measuring 'harm', and seeking interventions that minimise harm through:

- *Knowing which crimes to target to reduce social harm, and when and how to intervene to deliver these reductions.* This will help prioritisation of resources across the sector. When deciding on the crimes to target, the reduction in social harm should be weighed up against the resources required to deliver it: for example, providing more support for people who are at the greatest risk of becoming offenders, or investing more in rehabilitation services for those who have already committed an offence which may give a better return.
- *Understanding how the organisations outside the justice sector can help.* Agencies outside the core criminal justice sector (including charities, iwi and other public sector agencies) can help the sector deliver its results. The justice sector is already working closely with these organisations, but there is potential to build on this, and to use outcomes-based approaches to contracting.
- *Choosing the policy and operational settings that may reduce harm and*

*improve outcomes.* The sector may also benefit from revisiting policy and operational settings to ensure that they are geared towards reducing harm and improving outcomes. This may include the prosecution, sentencing and parole policies, as well as what should be considered a crime and put through a civil or criminal procedure.

*Telling a clear and compelling story on justice sector performance, focusing more on what is being achieved and less on how services are provided*

Public perception of the quality of justice services is often linked to having a visible presence in the community. This often means service performance gets measured by inputs (for example, the number of courthouses, police stations and officers). What really matters, however, is the quality of service the public experiences: for example, how quickly police respond, how safe we are, and how easily we can access justice services. This matters more than the number of buildings or people used to provide the service.

Measuring what is achieved will remove a critical handbrake on service improvements and will mean the sector can redesign operating models to provide better services to New Zealanders. They will be able to take advantage of productivity gains from technological advances and better operating practices, such as police using mobile communications technology.

## Conclusion

The justice sector's long-term outlook is promising. The number of people flowing through the criminal justice pipeline is falling. This is likely to continue with an aging population, which may deliver a demographic dividend.

The sector has a window of opportunity to deliver a virtuous cycle of improved performance and financial sustainability. To help with this, it is starting to consider different measures of performance: for example, focusing on harm minimisation instead of numbers in the pipeline, and other interventions within and outside the criminal justice pipeline to achieve better results. The sector architecture is in place to deliver results in a coordinated way across the justice and social sectors.

However, delivering the virtuous cycle will not happen automatically: the sector will need to modernise service delivery models and free up under-utilised resources for redeployment in priority areas. To help deliver its goals, the sector may benefit from collaborating even more on the front line and towards shared sector objectives; focusing resources on the most effective interventions to reduce harm and crime, in the short and long term; and telling a compelling performance story, focusing more on what the sector is achieving, to help the sector modernise service delivery.

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<sup>1</sup> For a discussion of the issues facing the justice sector then see Sonerson and O'Connell (2011).

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