

**BACKGROUND PAPER
FOR THE 2013
STATEMENT ON THE
LONG-TERM FISCAL
POSITION**

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

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Window of Opportunity to Improve Justice Sector Outcomes over the Long Term

1 Executive summary

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, focussing on minimising harm and victimisation;
- Bring perpetrators to justice with appropriate punishment; and
- Provide rehabilitation for offenders to reduce reoffending.

The question is how to deliver these aims to maximise 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 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 1990s¹. 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 decrease in the population.

This crime rate reduction has only recently 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.

¹ NZ Police, New Zealand Crime Statistics 2011/12

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. The paper argued that the fiscal and social costs of increased imprisonment were not sustainable or acceptable. In contrast, this background paper 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.

This window of opportunity has arisen in part because resources that are no longer needed to keep up with increasing pipeline numbers can be used to modernise services and improve outcomes.

The sector can make the most of this window of opportunity if it uses the next two to three years to do the following:

- Ensure that decisions taken across the criminal justice pipeline maximise the benefit to society. This may include Police's approach to crime prevention and prosecutions, the use of sanctions to punish offenders and deter crime, and the rehabilitation services undertaken to improve public safety and outcomes for victims and offenders.
- Deliver the next wave of reforms to its business and operating models to modernise service delivery. The productivity gains and efficiencies generated from service transformation can be reinvested to increase justice sector outputs, or potentially, if the savings are cashable, be used in other areas of public spending.

Doing this can create a virtuous cycle of improved outcomes and greater efficiency. To help with delivering the above, the sector may benefit from:

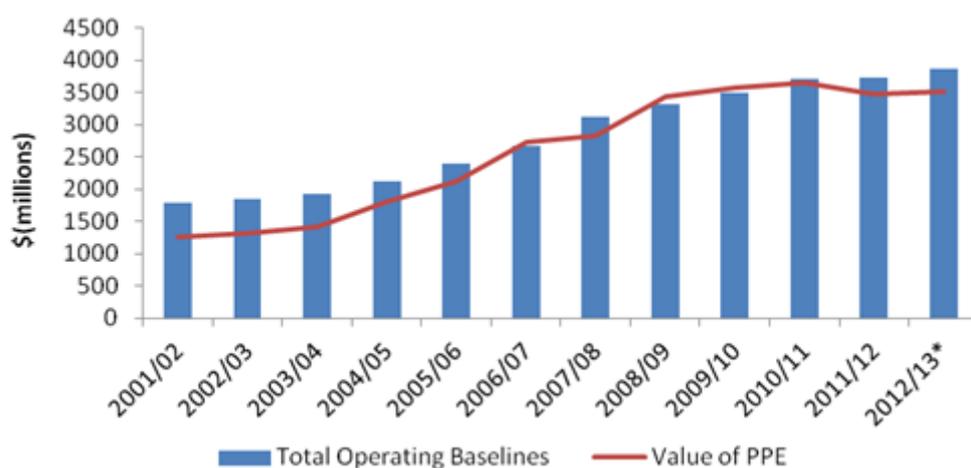
- Collaborating even more in frontline delivery and policy setting;
- Focussing on what works to reduce crime, based on evidence; and
- Telling a clear and compelling story about sector performance, based on what is being achieved - less crime, faster access to justice services and safer communities.

2 Spending on the justice sector has doubled in the last 10 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 2012/13². This is a 66% increase when price rises are taken into account (see figure 1 below) and represents over 5% of core Crown spending and about 1.8% of GDP.

The value of the sector's property, plant and equipment has increased by 280% from \$1.3 billion to \$3.5 billion between 2001/2 and 2012/13. As noted above, some of the increased expenditure on property over the last decade has been in response to growth in numbers entering the criminal justice pipeline (eg, four new prisons have been built since 2005).

Figure 1: Justice sector operating costs and value of property, plant and equipment since 2001/02



*- These costs are estimated based on the 2012/13 Supplementary Estimates

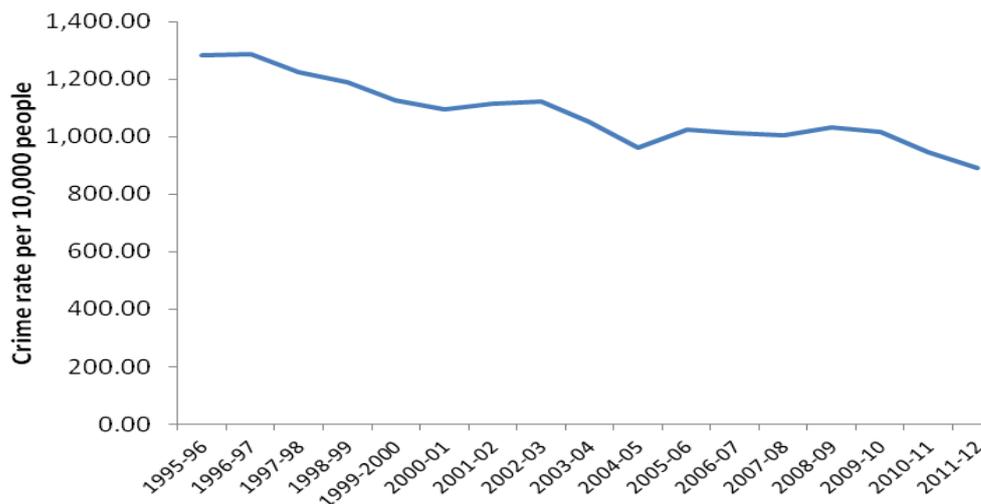
The rise in spending over the past decade was not due to an increase in crime. The latest crime statistics show that crime rates actually fell 9.6% from 2001/02 to 2011/12³. Figure 2 shows the reduction in crime rate since 1995/6⁴.

² Based on the 2012/13 Supplementary Estimates

³ Source: New Zealand Crime Statistics 2011/12 available at <http://www.police.govt.nz/service/statistics>

⁴ NZ Police, New Zealand Crime Statistics 2011/12.

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



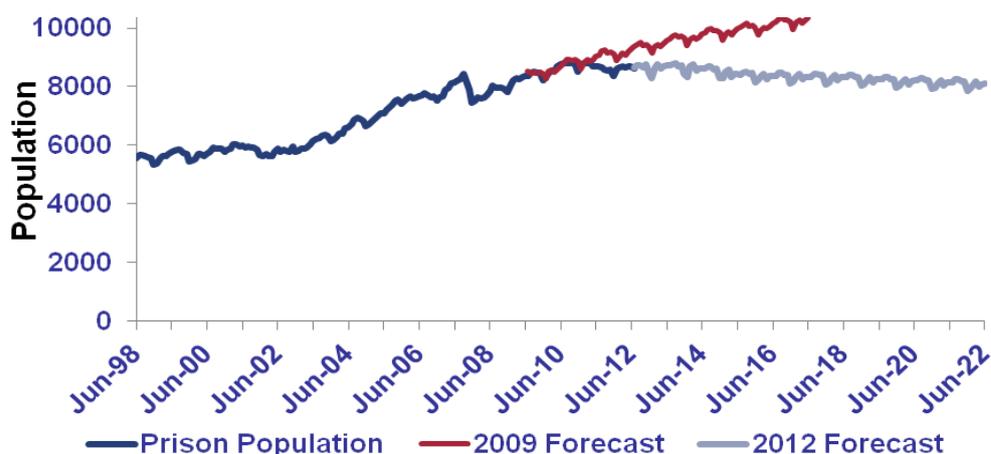
In contrast, more people flowed through the justice sector pipeline. The rise in costs appears to be the result of the policy and operational choices made in response to crime including:

- 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; and
- High fixed costs associated with an asset-intensive delivery model.

3 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 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 from 2009 to 2012.

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



Source: Ministry of Justice, 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 Police and the impact of Police 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 were therefore unlikely to attract a prison sentence.

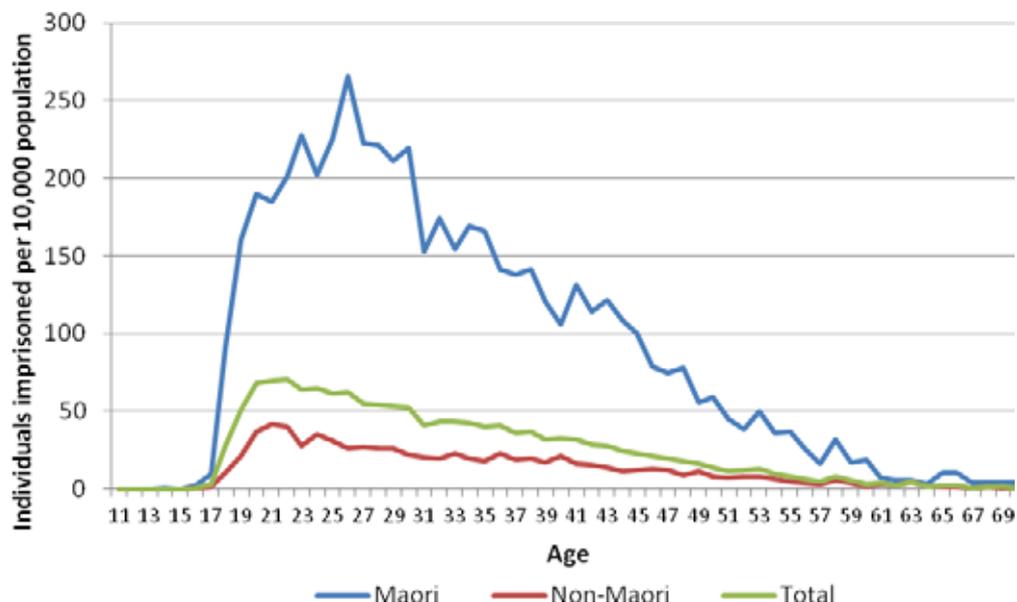
A key question is whether the changes seen over the past two years will be sustained or whether the previous trend of rising numbers entering the criminal justice system and increasing prisoner numbers will return.

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.

3.1 Who are the people in the criminal justice system?

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

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



Source: Department of Corrections, 2012

In 2011, 39% of the prison population was under 30 years old⁵. Māori are overrepresented both as victims, and as perpetrators of crime. Over half the prison population identify themselves as Māori, compared to 14.6% in the general population⁶.

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 abuse⁷.

⁵ http://www.corrections.govt.nz/research/offender-volumes-report/offender_volumes_report_2011/3_prison_sentenced_snapshots.html

⁶ <http://www.stats.govt.nz/Census/2006CensusHomePage/QuickStats/quickstats-about-a-subject/culture-and-identity/ethnic-groups-in-new-zealand.aspx>

⁷ <http://www.corrections.govt.nz/research/national-study-psychiatric-morbidity-in-nz-prisons.html#Executive-Summary>

4 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.

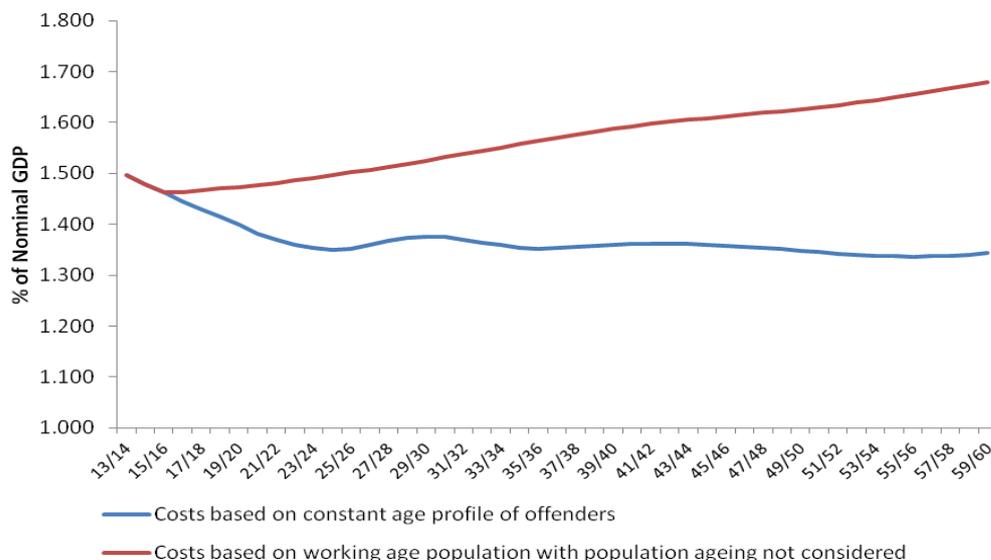
Young men are the largest offender group. In 2011, 43.6% of all sentences (custodial and non-custodial) were handed to young men aged 17 to 30 (For men aged 17 to 20, it was 12.7% of sentences)⁸. The smaller proportion of the population in younger age groups over the next 40 years could see a further 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 \$80bn between 2011/12 and 2059/60 (the 'demographic dividend').

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

- i A constant age profile of offenders as the population ages.
- ii Costs increase based on the working age population. The effect of population ageing on crime is not considered.

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



⁸ Source: Statistics New Zealand: http://www.stats.govt.nz/tools_and_services/tools/TableBuilder/criminal-conviction.aspx

However, the size of this demographic 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 to 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 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.

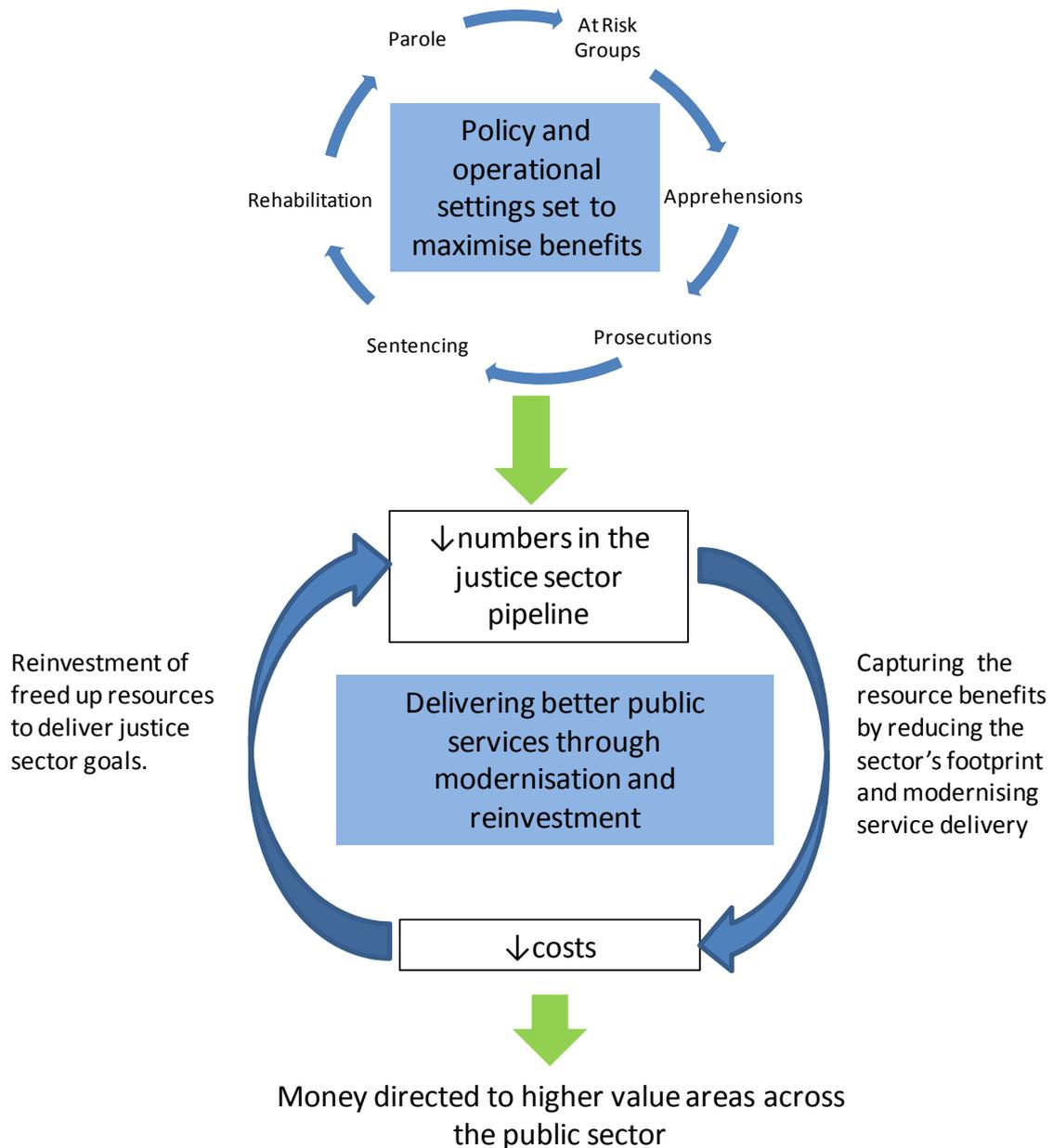
5 Making the most of the current window of opportunity

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 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 below). The virtuous cycle is the result of two elements:

- **Policy and operational settings that reduce crime and reoffending.** The sector may benefit from considering settings along the criminal justice pipeline. For example, how to deal with at risk groups (crime prevention and support for victims), which penalties are appropriate for an offender, and which rehabilitation services are most effective and efficient to reduce reoffending.
- **Delivering better public services through modernisation and reinvestment.** The policy and operational settings matter hugely in terms of achieving improved outcomes, including reducing numbers in the criminal justice system. The sector would benefit from translating this into savings, for example by closing buildings that are underutilised. The savings and resources freed up can be redeployed into areas that will deliver the highest benefits to society. If the savings are cashable, they could also be used in other areas of public spending, or to reduce taxes or government debt.

Figure 6: The Virtuous Cycle



5.1 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 maximise the benefits for New Zealanders.

Some of these choices include:

- **Dealing with at-risk groups:** How the sector works with victims to reduce their vulnerability to further offending, and how they manage those at risk of becoming offenders;
- **Apprehensions:** When and how Police apprehend offenders;

- **Prosecutions:** How Police use prosecutions effectively to deliver 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.

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

Effective policy and operational settings should help to reduce the number of people in each part of the criminal justice pipeline.

Falling numbers entering the justice sector pipeline will not automatically reduce costs. The sector would benefit from being able to translate reductions in court appearances and prisoner numbers into freed up resources (eg, staff who can be redirected to other activities across the sector) and cashable savings (eg, by closing underutilised buildings).

The Government and justice sector has 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 (that may reduce crime indirectly) or to reduce taxes or public debt.

6 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 independent from the sector (eg, judges), and may involve competing interests. Consensus across the sector and with the wider public about how best to deliver the aims of a safe and just society is required. To help produce the virtuous cycle, the sector could benefit from:

- **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. The chief executives of the three large sector agencies (NZ 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 across the sector and facilitates better prioritisation of resources.

There is a strong appetite to achieve further collaboration, including on the frontline. 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, joint capital planning, and prioritisation of funding across the sector to where it achieves the best return.

- **Focussing on the most effective interventions to reduce crime, based on evidence.**

By leveraging more off information the sector already has about when, where and who commits particular types of crimes, it is already achieving better outcomes for society.

However, there is potential to improve outcomes even further by adopting an investment approach so that benefits that are realised from falling volumes are re-invested across the criminal justice pipeline to areas that provide the greatest benefits to society.

Knowing which crimes to target to reduce social harm, and when and how to intervene to deliver these reductions, will help prioritisation of resources across the sector. For example, when deciding on the crimes to target, the reduction in social harm should be weighed up against the resources required to deliver it. Some crimes may be hard to reduce, but the high social harm associated with these offences suggests tackling them is worthwhile.

An investment approach would also assess the benefits of investing along the pipeline and outside the core criminal justice sector. For example, whether to provide more support for people who are at the greatest risk of becoming offenders or to invest more in rehabilitation services for those who have already committed an offence.

Interventions delivered through other social sector agencies including health, housing and education also contribute to crime reduction and rehabilitation outcomes. The justice sector is already working closely with other social sector agencies, non-governmental organisations and iwi but there is potential to build on this, and to use outcomes-based approaches to contracting.

- **Telling a clear and compelling story on justice sector performance, focussing 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 (eg, 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. Measuring what is achieved 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.

7 Conclusion

The outlook for the justice sector is promising. Unlike in health and retirement income, the justice sector is unlikely to come under demographic pressures.

The sector has a window of opportunity to deliver a virtuous cycle of improved performance **and** financial sustainability. Delivering the cycle will not happen automatically: the sector will need to modernise service delivery models and free up underutilised resources for redeployment in priority areas.

To help deliver their goals, the sector may benefit from:

- collaborating even more on the frontline and towards shared sector objectives;
- focussing resources on the most effective interventions to reduce crime, in the short and long term; and
- telling a compelling performance story, focussing more on what the sector is achieving, to help the sector modernise service delivery.