

Sentencing in Scotland: Is justice getting tougher?

Sentencing trends, effectiveness and what the public think.

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Public attitudes towards sentencing

What people think

Primary Sources

- The Public and the Justice System literature review
- Summary Justice reform: Victims, Witnesses and Public Perceptions Evaluation
- Deliberative workshops

Sentencing experience – Victims and witnesses

- Victims and witness often not told about sentencing outcomes – communication flagged up repeatedly as an issue, both case progress and sentence
- Issue for satisfaction with the justice system – being involved is key to judgements about procedural justice, which influences confidence, and future behaviour
- Also leads to falling back on other sources of information

The wider public - sentencing knowledge

- People don't know much about sentencing practice or the range of sentencing options, for example 'community sentences' is often confused as 'community service'
- Recent research suggests that public knowledge of the CPO is poor especially of the rehabilitative elements
- Experiments have shown that people change their preferences for sentences when shown a full range of disposals. They tend to accept non-custodial options as a replacement for prison.

Is the 'punitive public' a myth?

- Public views often confused with tabloid headlines
- The public are often described as being punitive but this is **NOT** substantiated by the evidence (well it depends on what question you ask)
- Polls – people use 'short cuts' to the most violent crime / exceptional sentences
- General questions about whether sentences are 'too lenient' or 'too harsh' tend to produce 'too lenient' responses
- But in hypothetical cases, peoples responses tend to match their severity of real courts (including Scottish studies)
- The public take background and circumstances into account

Cont....

- Rehabilitation is seen as entirely legitimate for drug abuse and for people with disadvantaged backgrounds
- People will reject prison in favour of a community sentence or a fine if you explicitly present them as alternatives
- Proportionality is important, which support for community sentences and fines for low level offences and first time offenders
- There is a clear shift in sentencing preference for violent and repeat offenders
- Victims of crime are no more punitive than non-victims

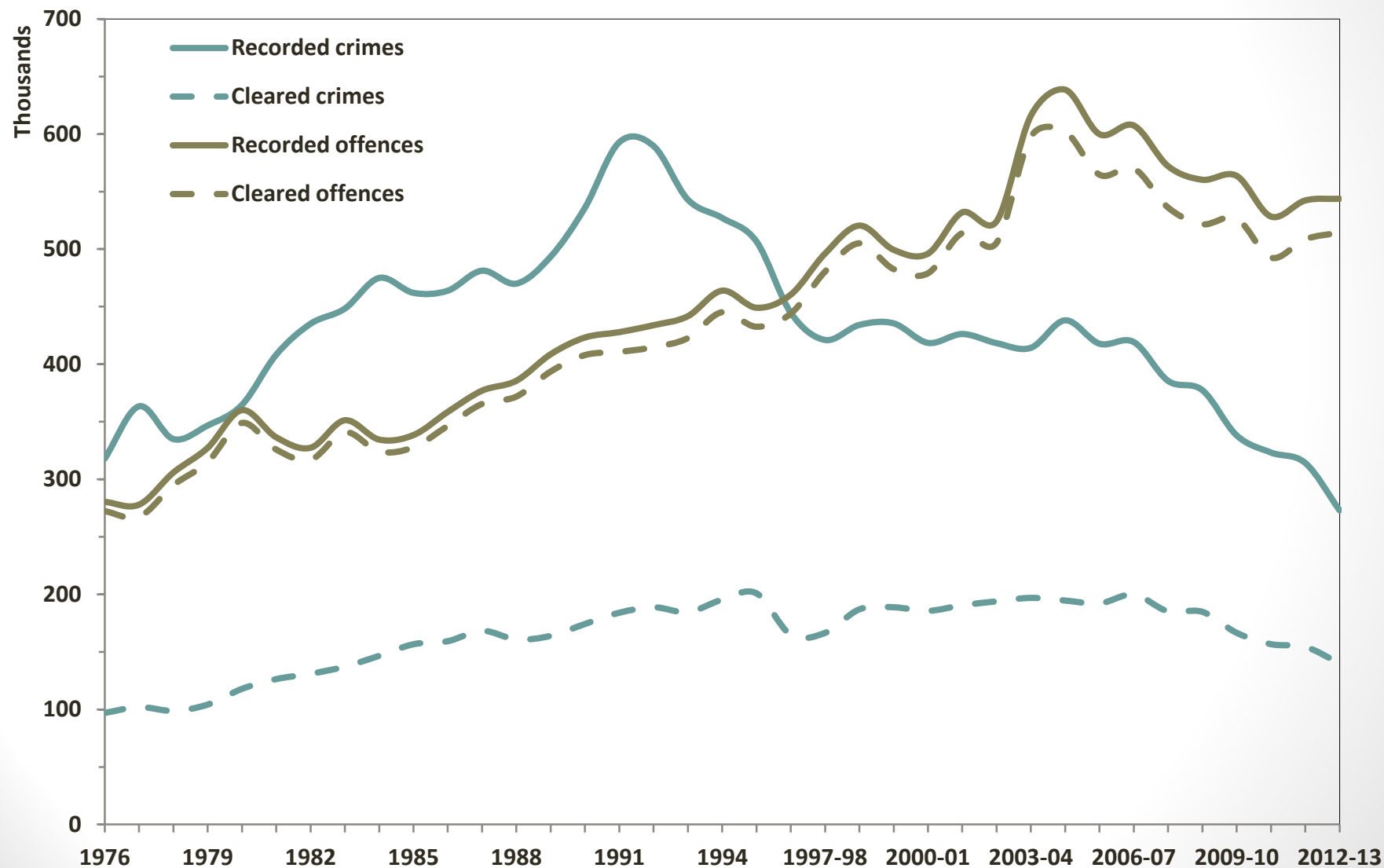
Sources of information

Where people get information about the CJS (adapted from the BCS 2004/05)	Source of the most information (%)	Trust in the source that they 'tell the truth about how crime is being dealt with'
TV news/documentaries	95	87
Local Newspaper	85	77
Broadsheet newspaper	68	60
Relative/friends experience	67	89
Tabloid newspapers	60	22
Internet	24	30
Police	23	68
What you learned in school	19	57
Newsletter from the police sent to your home	18	49
Telephone helpline	5	36

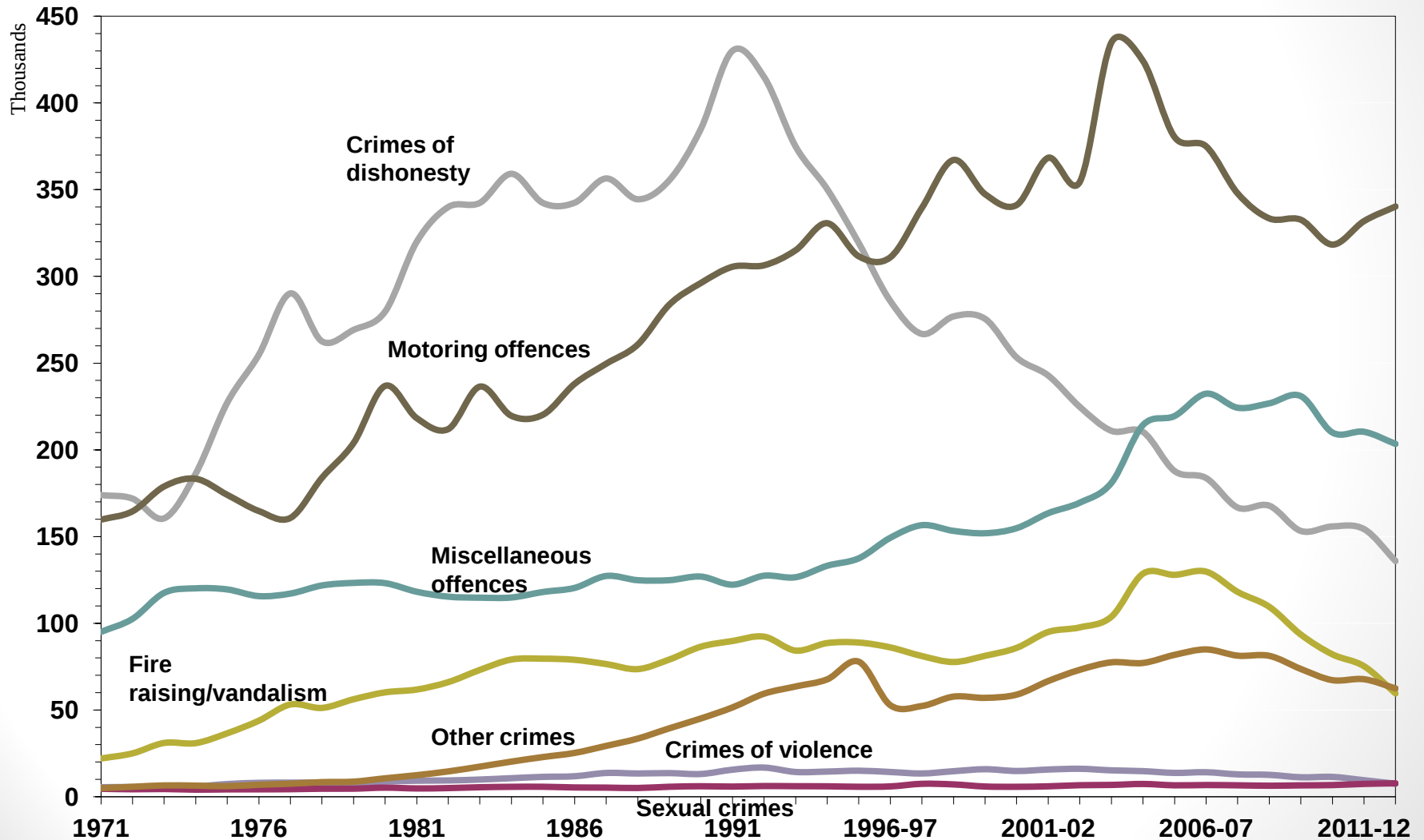
Footnote: Talking about crime all the time increases fear of crime

How has sentencing
changed in practice?

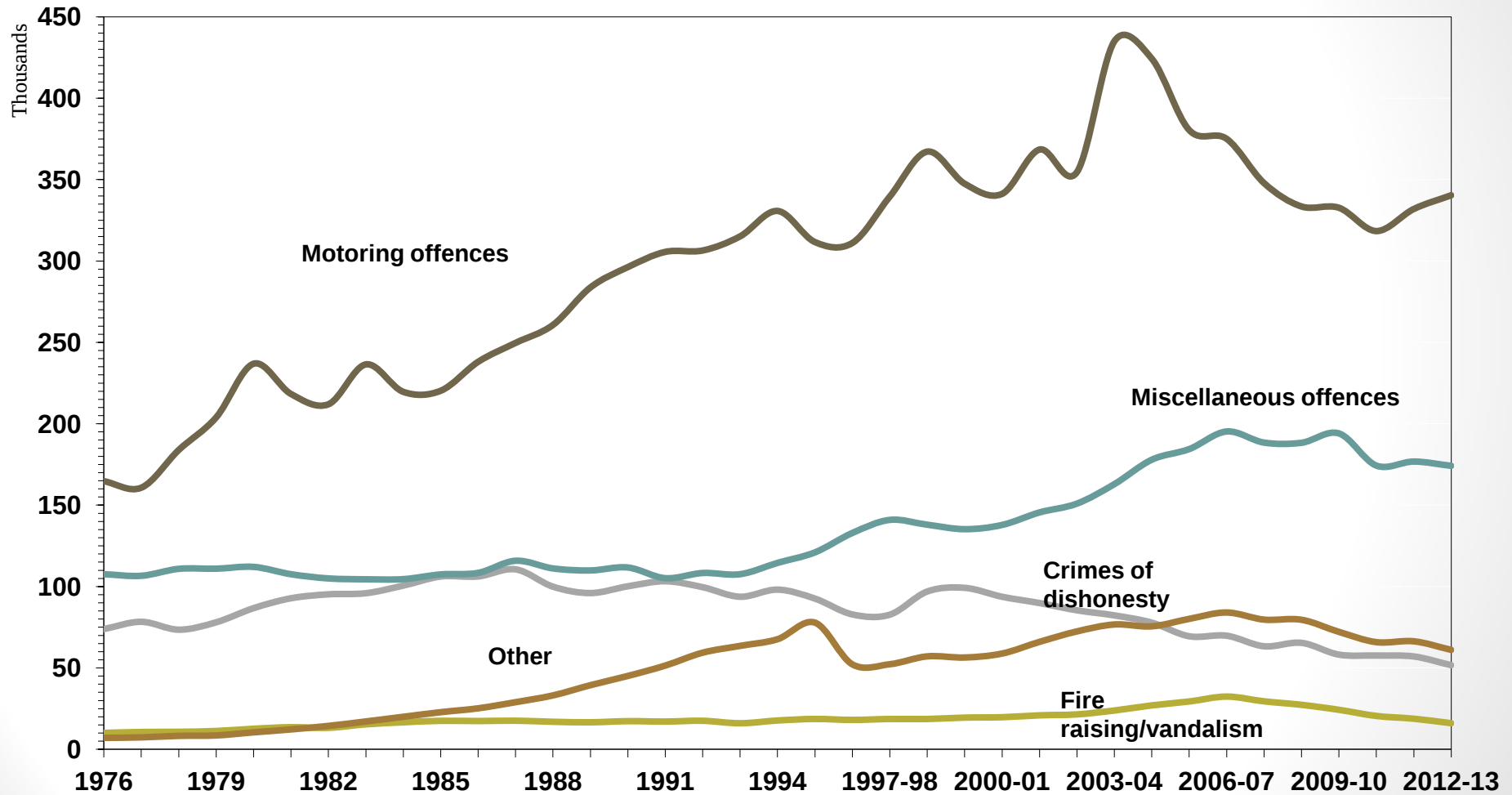
Context - Crime in Scotland



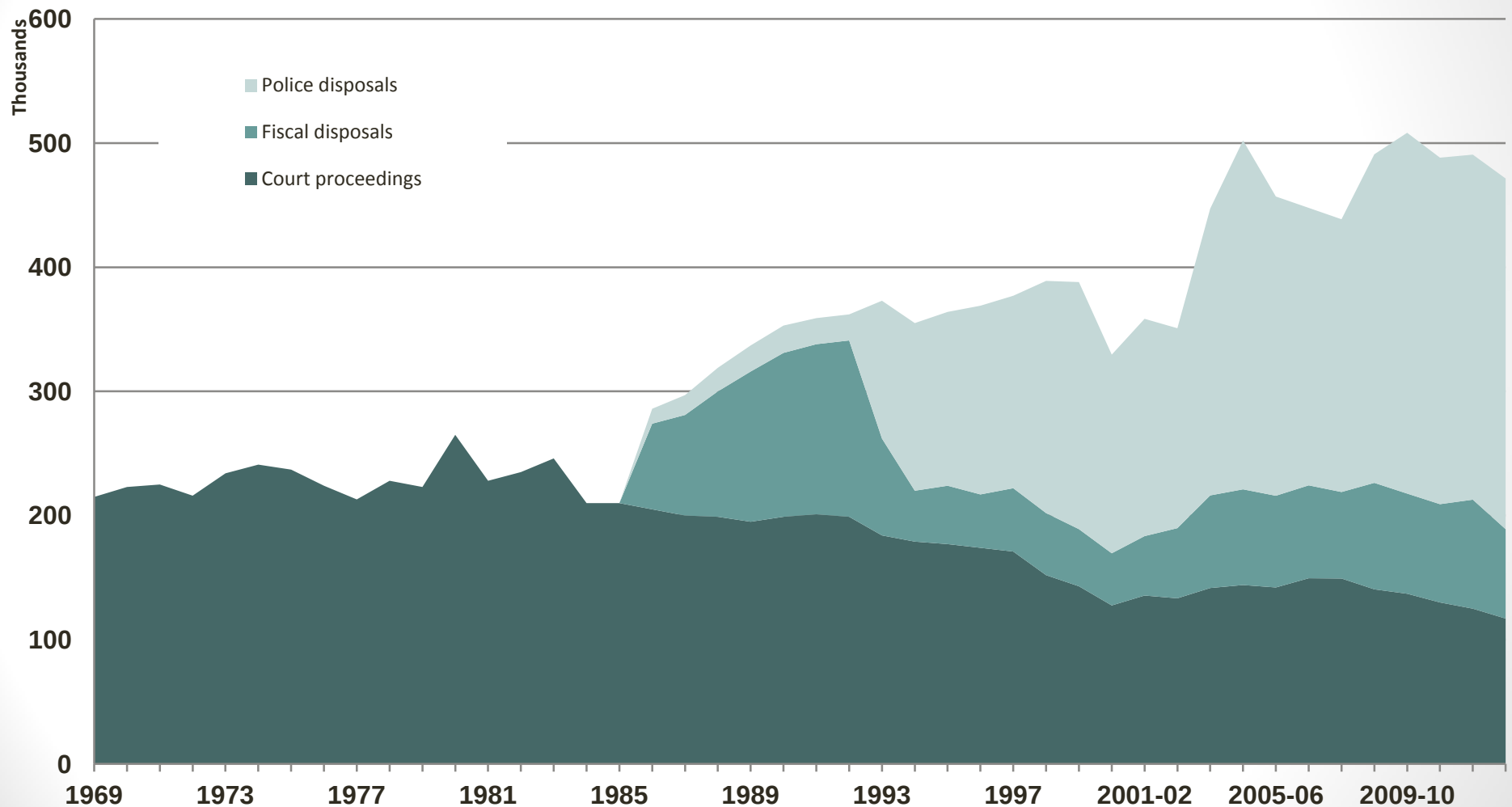
Types of crime are changing...



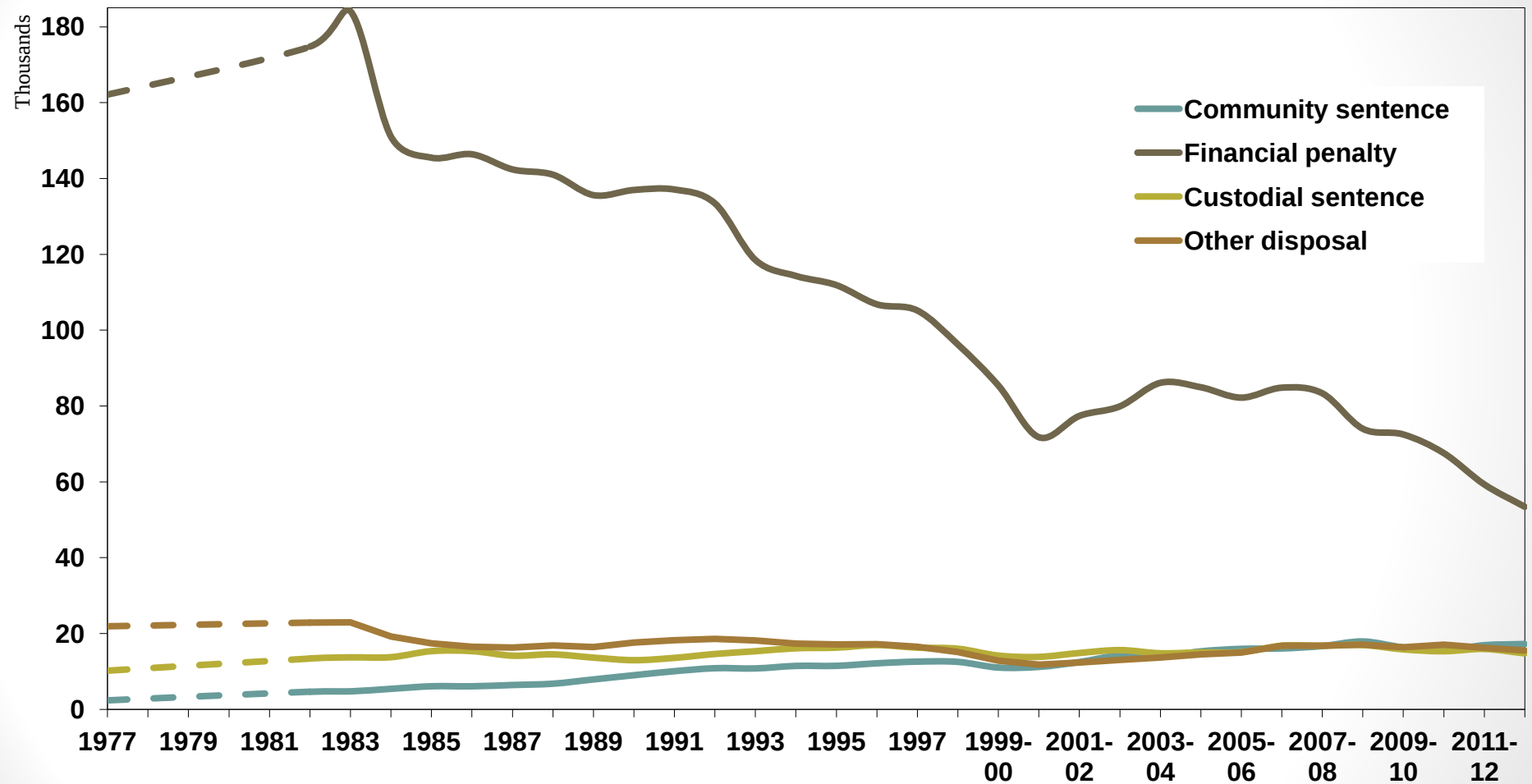
...and so are clear-up rates.



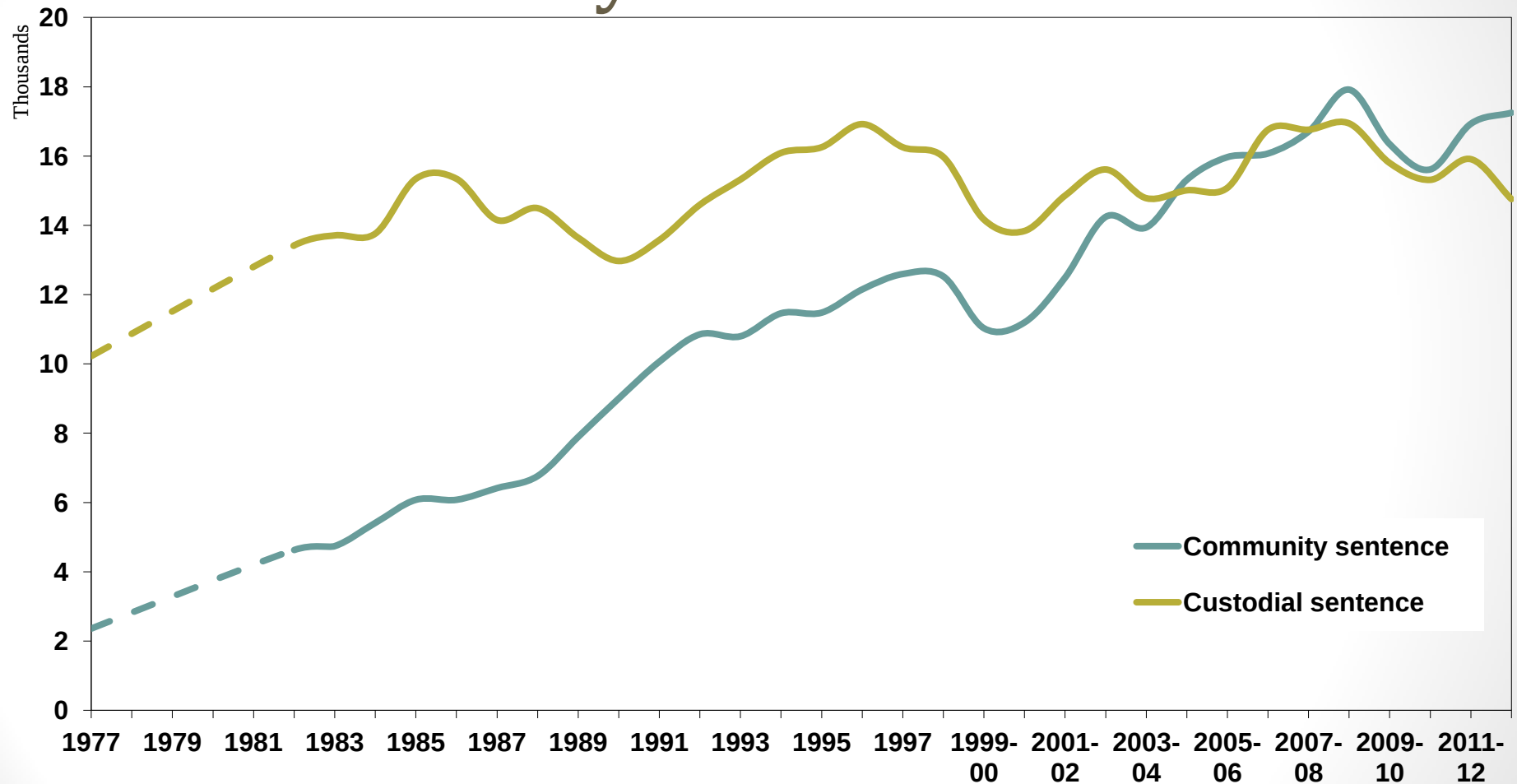
How are these crimes dealt with?



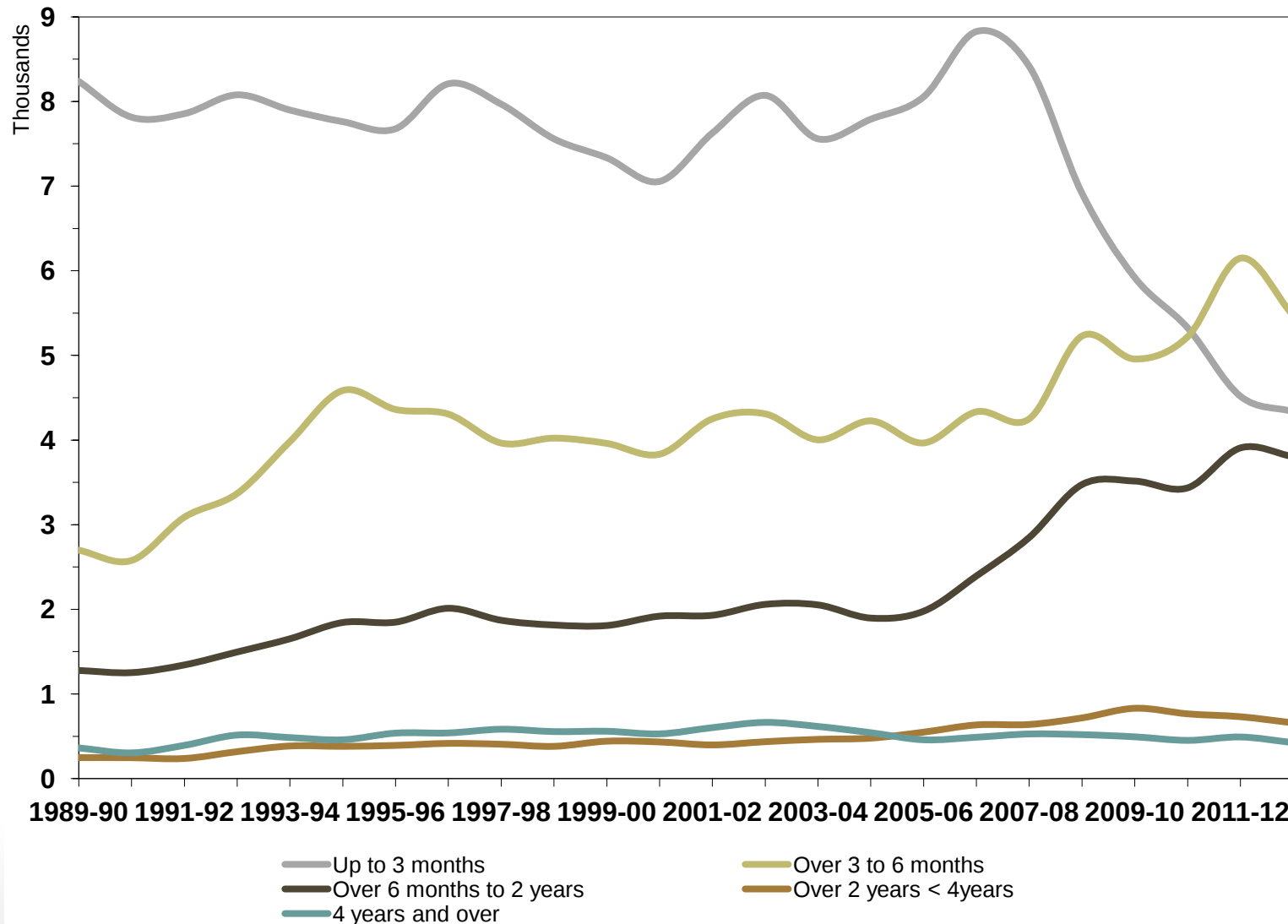
Fewer fines.....



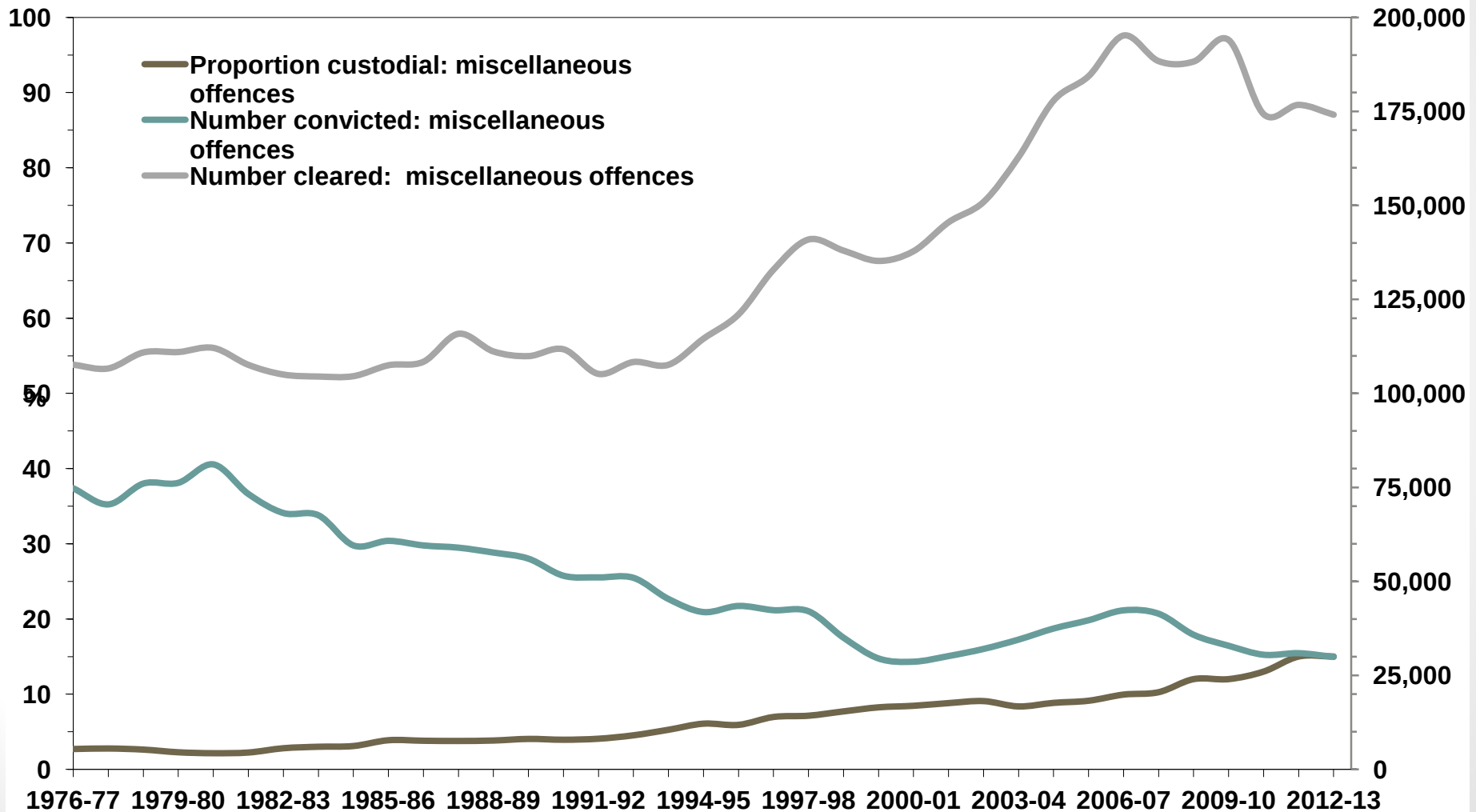
..... slower, but steady, rise in custody
and community sentences



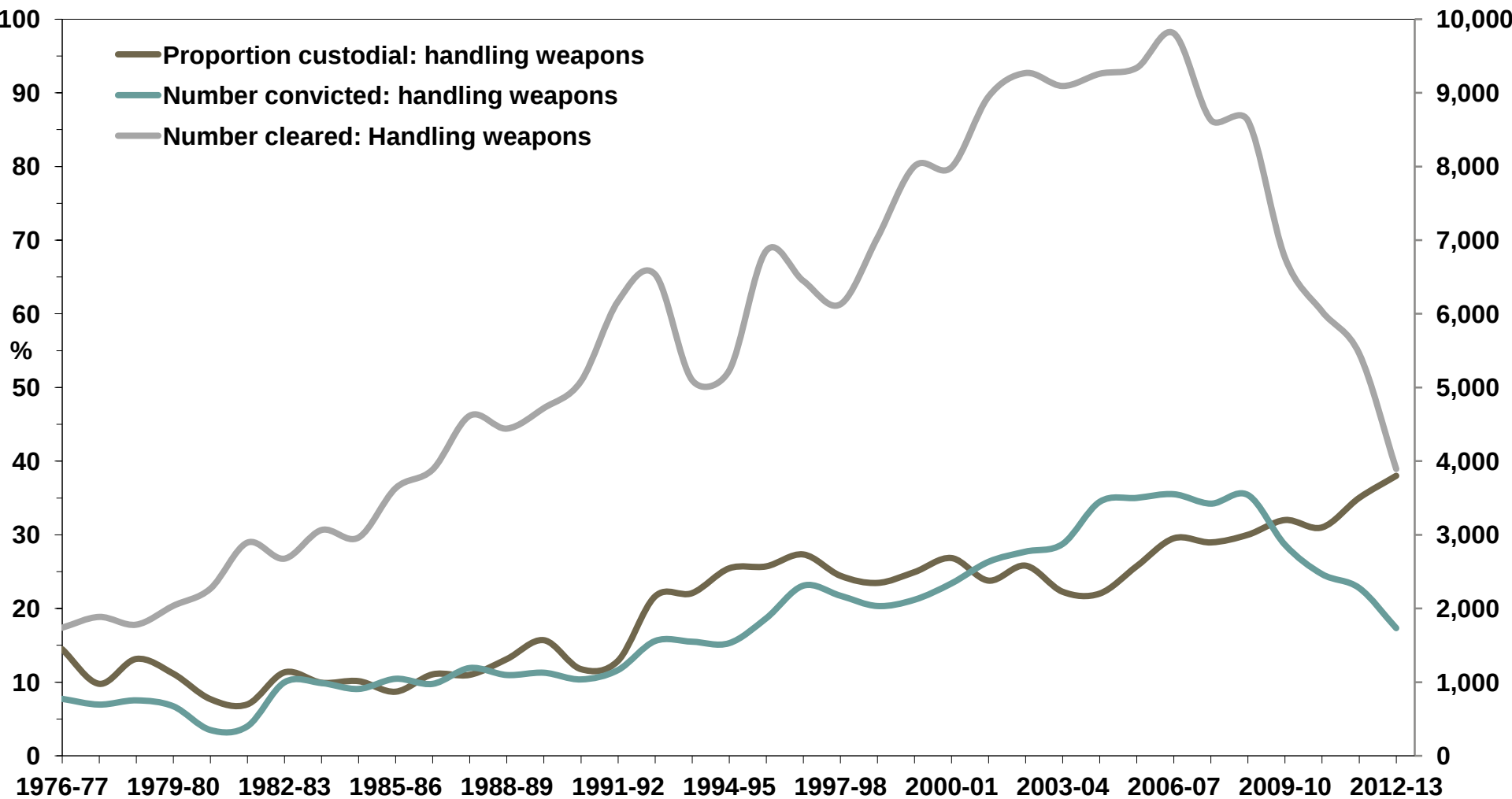
Custodial sentences getting longer



Other possible drivers – persistent offenders?



And, in some cases, more punitive?



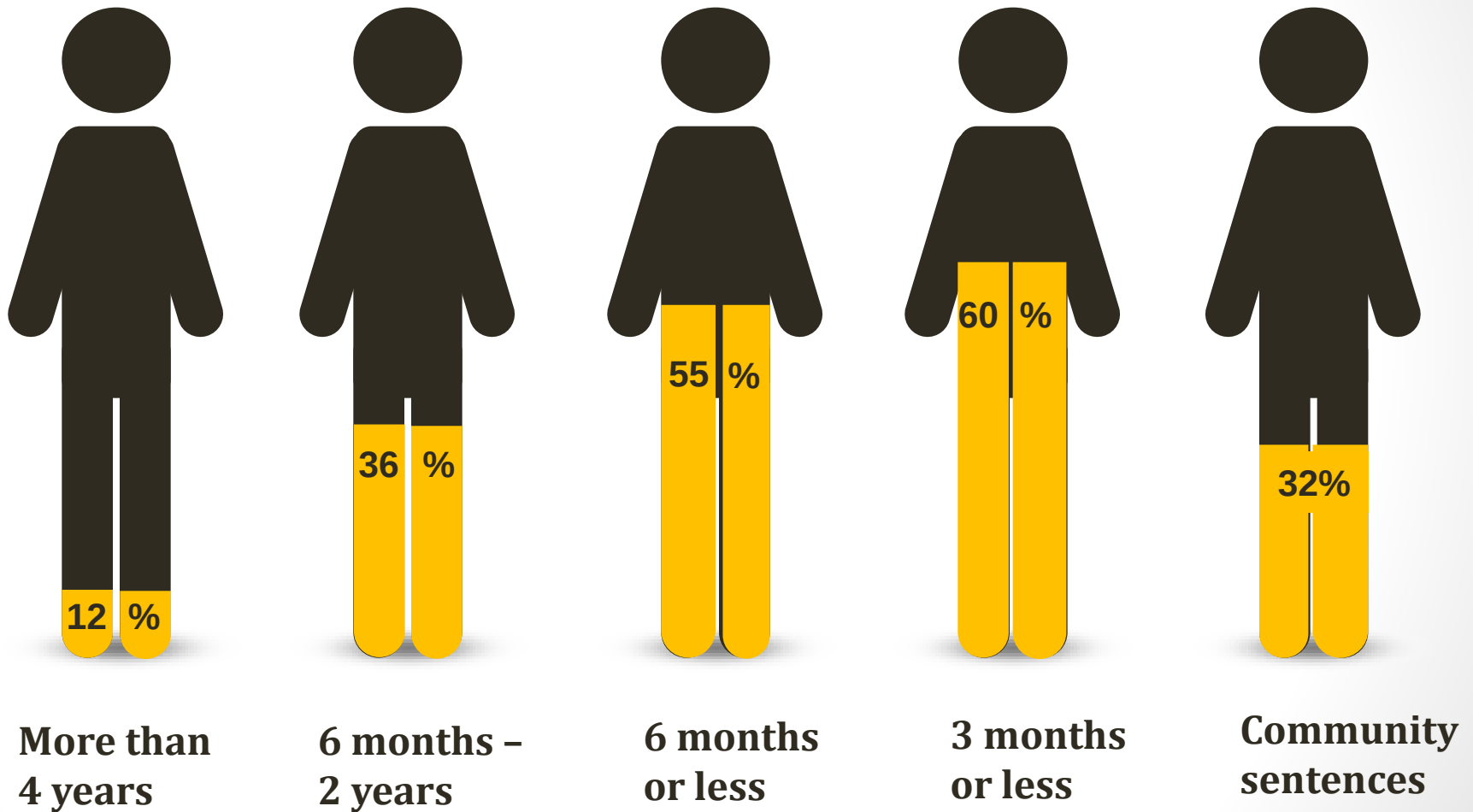
How effective are custodial and community sentences at reducing reoffending?

Context

- Clear shifts in recorded crime and how crime is dealt with
- Also been changes to overall reconviction rates
- The one year reconviction rate is at its lowest level in the last 14 years.
- **28% - are reconvicted within a year**
- Might be fewer people in court but use of custody and community sentences are both rising
- So how effective are different sentences are reducing reoffending?

One year reconviction rates by different custodial sentence lengths vs. community sentences

RR = 43% (all custody)



Reconviction rates for community sentences

- Short term sentences are not an effective deterrent
- Sentence length is a key predictor of future offending along with number of prior convictions
- Are community sentences more effective at reducing reconvictions for acquisitive offenders compared with short term sentences?
- Technique that selects offenders with similar characteristics (index offence, age, gender number of priors) then compares their reconviction rates
- Ministry of Justice carried out matched pairs analysis using propensity score matching to identify similar groups of offenders.
- 2 year reconviction rate for community sentences was 56.2% compared to 62.5% for a custodial sentence under 12 months.
- But analysis does not take account of other factors which also affect sentencing and likelihood of reconviction, such as motivation to desist.

Experience of serving short term sentences

Interviews with Scottish short-termers found

- It's the cumulative effect of doing many short term sentences which carries the negative impacts of short-term imprisonment
- Use of short term sentences is a function mainly of drug and alcohol problems
- People felt they aware of being sentenced on their criminal histories to the exclusion of any progress
- Prison was perceived so have a positive impact on some – getting dry, time to think but no pattern to when a change in perspective would occur
- Participation in interventions regarded positively and regarded as making a difference
- Interviews didn't detect any fear of prison
- Distinct lack of engagement with the sentence
- Prison time = passive time
- Key to rehabilitation is addressing criminogenic needs through effective interventions preferably within the community, supportive supervisors, employers and families

A case study of a rehabilitative culture: Sweden

- Sweden incarcerates 70 people per 100,000 - half of UK rate
- 6% drop in prison population
- Try not to use short term sentences. First to introduce electronic monitoring to reduce the number
- Very rare to get a sentence of more than 10 years – lifers can appeal after 10 years for a fixed term
- Age of criminal responsibility is 15 years
- 4,500 volunteers from members of the public help offenders reintegrate
- Everyone who needs it receives drug rehabilitation
- Turning their attention to effective interventions to address violence and aggression
- No interference from politicians
- Reconviction rate after 3 years is 30-40% - half of UK rate

Conclusions

- **The public know very little about sentencing but the more information they are given about the circumstances of the offender, the less punitive they are**
- **In policy terms, it is hard to pinpoint how to communicate information about crime and sentences. On the one hand using local newspapers and the police to promote more factual messages might be effective, but in the other, drawing attention to crime may backfire.**
- **The ‘myth’ of a punitive public may limit sentencing and policy options – US research**

Conclusions

- **Sentencing patterns are changing. The drivers of these trends are complex:**
 - **Type of Crimes committed**
 - **System change**
 - **Increased diversion**
 - **Tougher justice for some types crimes?**
- **Short term sentences are not an effective deterrent nor are they effective at rehabilitating offenders. Interventions which target criminogenic needs and support by skilled and dedicated workers and family are the best way to change behaviour after release.**