

The justice-held population, England and Wales

A quarterly composite series of people whose liberty is conditioned by the criminal justice system

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1 Definition

The justice-held population is the number of people in England and Wales who, at a point in time, are in one of four states:

LIMB	STATE	SOURCE
A	In prison (all custody types, including remand)	MoJ Offender Management Statistics, prison population tables
B	Under Probation Service supervision in the community, on a court order or on post-release licence	MoJ OMSQ, probation caseload, “All supervision in the community”
C	On bail awaiting trial in the Crown Court	MoJ Criminal Court Statistics Quarterly, Table O2, remanded on bail
D	Awaiting trial or sending in the magistrates’ courts on an either-way or indictable-only charge	MoJ Criminal Court Statistics Quarterly, Table M1, “for trial” open cases

Table 1. The four limbs.

Justice-held population = A + B + C + D. Published at calendar year end from 2019 and at the latest available quarter. Designed to be reproducible from published tables by anyone.

2 What is excluded, and why

EXCLUDED	REASON
Pre-release supervision (probation caseload)	These people are in prison and already in limb A
Magistrates' summary motoring cases	Almost entirely Single Justice Procedure; no realistic custody outcome
Magistrates' summary non-motoring cases	Custody rate very low; excluded pending a custody-weighted refinement
Magistrates' breach cases	Breach of a community order or suspended sentence; already in limb B
Suspended sentence orders without requirements	Not supervised; excluded from limb B by the MoJ's own definition
Defendants in custody awaiting trial	In prison; already in limb A
Youth justice, immigration detention, civil orders	Outside scope

Table 2. Exclusions.

3 Construction, 2019 to 2026

YEAR END	A: PRISON	B: COMMUNITY	C: CC BAIL	D: MAGISTRATES	TOTAL	A AS %
2019	82,868	172,110	19,261	47,085	321,324	25.8
2020	78,180	155,679	32,461	76,163	342,483	22.8
2021	79,092	170,744	33,357	51,568	334,761	23.6
2022	81,806	170,655	35,508	52,933	340,902	24.0
2023	87,489	164,359	36,645	59,834	348,327	25.1
2024	85,372	167,575	42,300	69,304	364,551	23.4
Mar 2026	87,342	175,677*	50,275	83,020	396,314	22.0

Table 3. * Break-adjusted; see section 5.

Between December 2019 and March 2026 the series rose by 74,990 (23.3%). Of that increase, 6% was prison, 5% community supervision, 41% Crown Court bail and 48% magistrates' cases. People awaiting trial with a realistic custody outcome (C + D) numbered 133,295 in March 2026, 1.5 times the prison population.

4 Relationship to existing measures

Prison plus probation (A + B) is not new. The Council of Europe SPACE I and II statistics compute a “correctional rate” of prison plus probation per 100,000 population for every member state. McNeill and Beyens (2013) and McNeill (2018) built the mass supervision literature on that comparison. The US Bureau of Justice Statistics has published prison + jail + probation + parole annually since 1985.

On this construction, A + B per 100,000 population for England and Wales was 416 in 2024. McNeill (2021) cites Scotland at 548 and describes that as 125% of England and Wales, implying about 440. The two are consistent within definitional differences, so limbs A and B here are comparable with the international literature.

Limbs C and D are the addition. No existing series counts people released on bail awaiting trial. The US measure includes pre-trial detainees (in jail) but not defendants released pending trial. SPACE II covers probation only. Limbs C and D account for 89% of the growth in the England and Wales series since 2019.

5 Adjustments and breaks

Probation, 31 March 2026. The MoJ introduced a new data pipeline from the January to March 2026 reporting period, which captures more cases and was not applied retrospectively (OMSQ probation tables, note 49). The break is estimated as the last quarterly change less the mean of the three preceding quarterly changes: +3,623 on “All supervision in the community” (2.1% of level). The March 2026 figure in Table 3 is the published 179,300 less 3,623. The underlying quarterly growth before the break was about +2,180, so the community limb was genuinely rising through 2025.

Magistrates’ series start. Table M1 with the offence-class split begins in 2019 Q1, which fixes the start of the four-limb series. A three-limb series (A + B + C) is available from 2015 and shows the same direction.

Crown Court bail, 2015. Table O2 begins in 2016 Q1; the 2015 three-limb figure uses that value.

6 Known limitations

- **Cases, not people, in limbs C and D.** A defendant with two open cases counts twice. MoJ has stated that the same is true of recall counts. The overstatement is unquantified.
- **Overlap between limbs.** A person on licence (B) who is charged with a new offence and bailed (C or D) is counted twice. Unquantified; would reduce the total.
- **Custody in limb D.** A small number of defendants awaiting magistrates’ trial are held in custody and are therefore also in limb A. Custody time limits at magistrates’ courts are 56 days, so the overlap is small.
- **Probation “contact suspended” cases.** In March 2026, 38,896 of limb B were cases where contact supervision had been suspended under Probation Reset or Probation Impact. They remain on an active order or licence and are included, but they are not being actively supervised.
- **Data quality on remand.** HMCTS has told the Public Accounts Committee that MoJ data on the remand population are not accurate enough to draw insights from. Limb A totals reconcile across weekly and monthly publications; time-on-remand data do not enter this series.

7 Planned refinements

- A custody-weighted version of limb D using the plea and offence tables, so that summary non-motoring cases with a realistic custody outcome can be included.
- De-duplication of limbs C and D to persons, if MoJ publishes or releases defendant-level counts.
- Extension of limb D back before 2019 if an earlier consistent table can be located.
- Quarterly publication on the day the OMSQ and CCSQ tables are released.

8 Why the series exists

The prison population of England and Wales has been within a few per cent of 85,000 for fifteen years. Over the same period sentences lengthened, release points were cut three times in two years, the remand population doubled and then fell as courts bailed defendants they would previously have remanded, and recalls to prison rose until they exceeded releases. Each of these is reported separately as a record. None of them is visible in the headline, because the headline is managed to the number of cells available.

THE POINT OF THE SERIES

The justice-held population is an attempt to measure what the headline does not: how many people the state is currently holding in some condition of restricted liberty, whether in a cell, on a licence, on an order, or waiting for a courtroom. It has grown by a quarter since 2019, and almost all of the growth is in the queue.

What would prove this wrong

- Prior work counting pre-trial defendants alongside supervised populations. None was found in the mass supervision literature, SPACE or BJS; the author of *Pervasive Punishment* has been asked directly.
- A person-level count of the court limbs materially lower than the case count. This would reduce the level, not the direction: the case count rose 161% for Crown Court bail.
- A definitional change in the probation caseload larger than the 3,623 estimated here. The MoJ has not published a back-series; the estimate is from the quarterly path and is stated.

9 Reproducibility

All four limbs are published MoJ tables. The construction is implemented in the Walk Forward Research repository (justice_held_population.csv, probation_break_adjustment.csv, magistrates_open_by_class.csv, crown_court_open_by_remand.csv) at github.com/walkforwardresearch/prisoncap and refreshes from the gov.uk content API. The series and components are deposited at <https://doi.org/10.5281/zenodo.22536356>.

Corrections. None to this version. Corrections to any Walk Forward Research paper are recorded in the definitions log in the repository and noted here in subsequent versions.

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This is a first version and will be revised. Challenges to the construction are welcome and will be logged.