


# Ending the Revolving Prison Door?

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# 3 Seductive Illusions

1. Don't tell the Ignorant Public
  2. Robust Community 'Alternatives' Will Replace Imprisonment
  3. Prison Should be 'the Last Resort'
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# Seductive Illusion 1: Don't Tell the Ignorant Public



Keep the Ignorant Public Out!



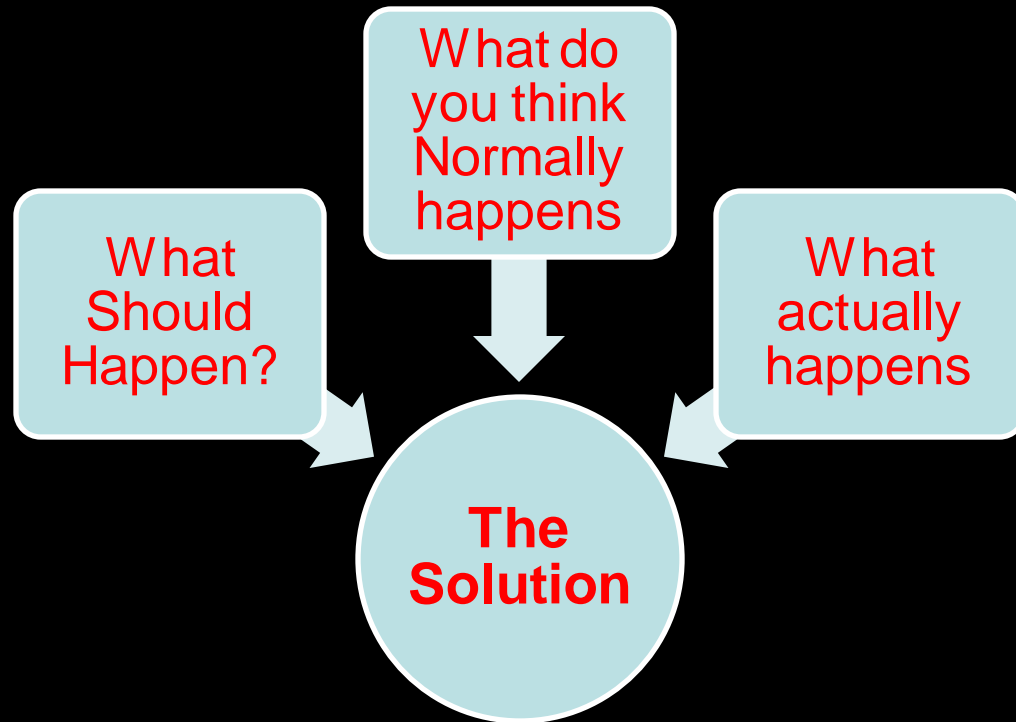


# Possible Responses



So What's The Solution?

# Preference –Expectation- Reality





Seductive Illusion II:

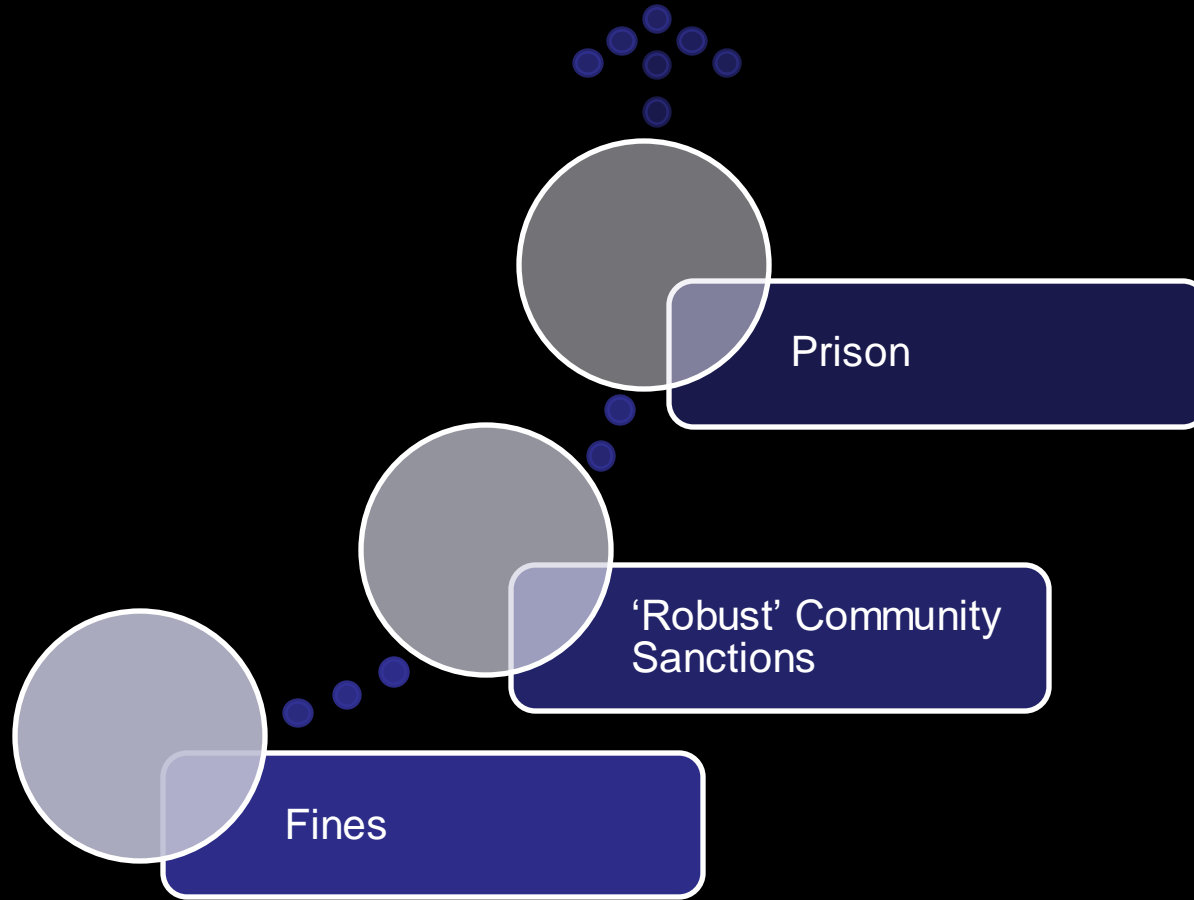
# Robust Community 'Alternatives' Will Simply Replace Lower End Imprisonment



## Seductive Illusion II:

# In Reality

(e.g. Abei et al 2014; Phelps 2013; McNeill 2019)



# Seductive Illusion 3: Prison Must be 'the Last Resort'

# NGOs, Govt Policy, Domestic & Intl Law

- For example:

“The Howard League Scotland is the country's leading independent penal reform organisation. We campaign for the Scottish penal system to be just, progressive and humane ***and that prison becomes a measure of last resort.***” (HLS website emphasis added)

- **IPRT's Vision:** “*Our vision is a just, humane Ireland where prison is used as a last resort.*”

45-1874

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Policy of “Last Resort” has been tried for over 40 years. For example...

“Use prisons as sparingly as possible”

“Inevitable for violent offenders,.... we must question whether short periods of custody... are appropriate...”







“make more unlikely the use of prison *except as a last resort* by the courts.... The courts are now encouraged to regard prison as the last resort, as *the place where people should go only where there is no other course to take with them.*” Malcolm Rifkind MP Under-Sec of St 1Aug1980

# The New Scotland?



# The Presumption

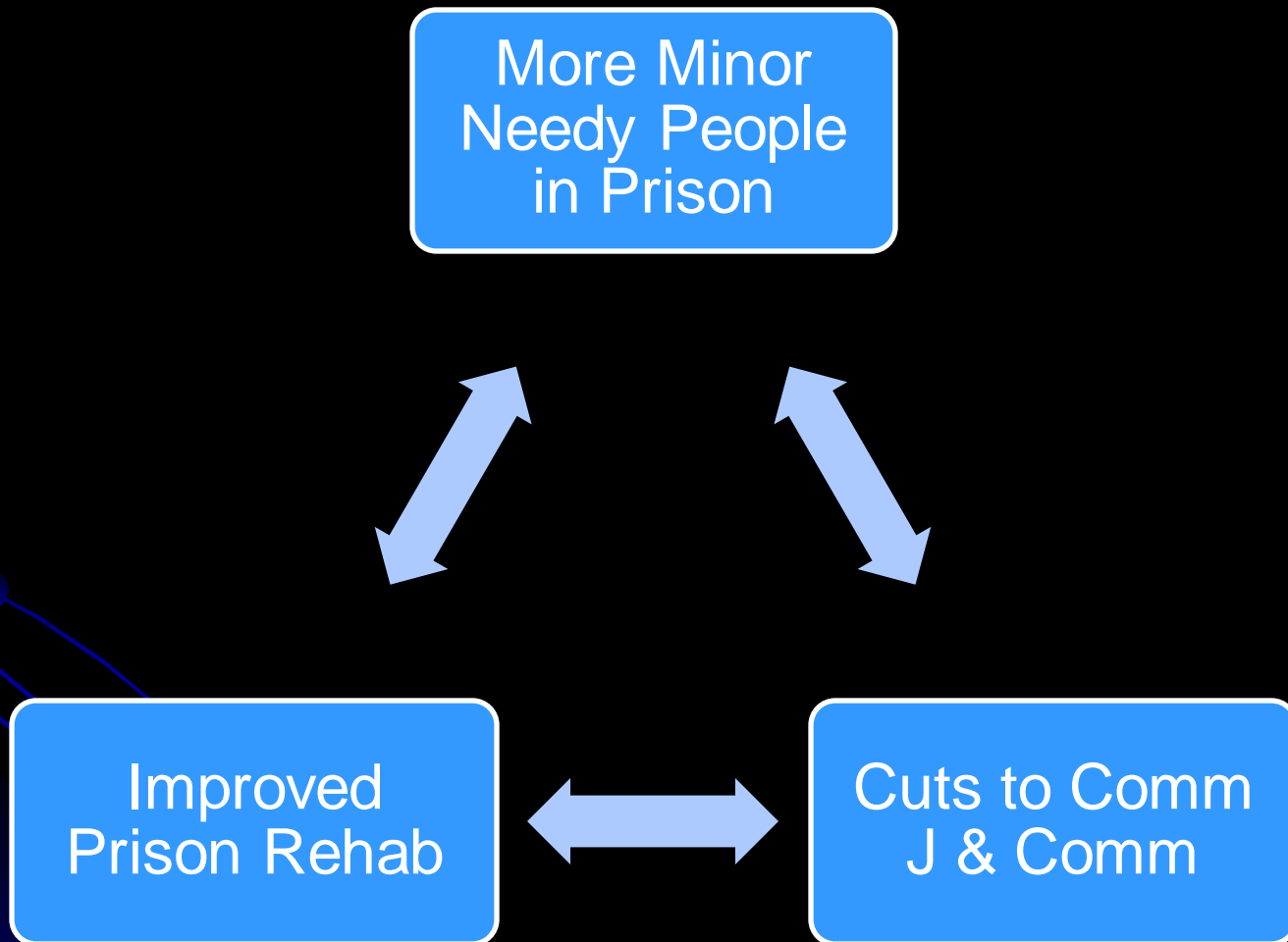
- “A court must not pass a sentence of imprisonment for a term of [x] months or less on a person ***unless the court considers that no other method of dealing with the person is appropriate.***” CJ & L (S) Act 2010, s10
- This is ‘Last Resort’ logic again – just in new clothes!

# Last Resort >>> Prison is Our Default

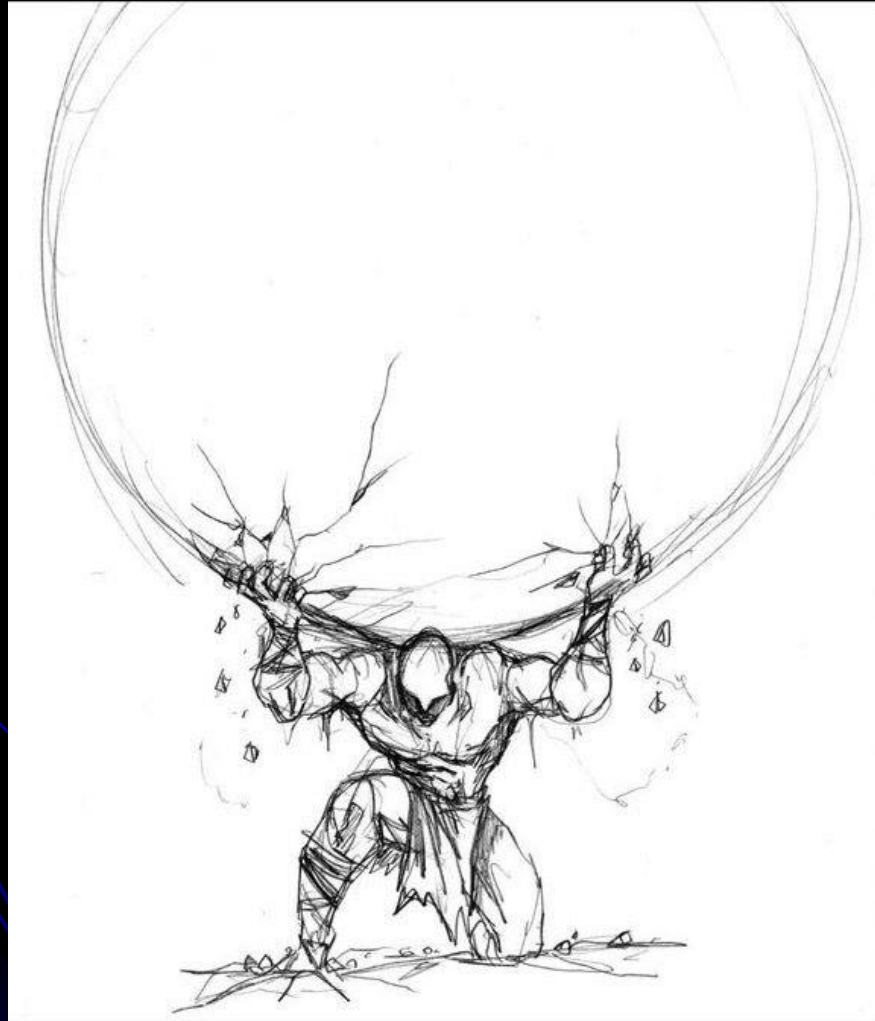
- 3 M Presumption “has had little impact on sentencing decisions.” (SG 2015)
- “really when I’m imposing short [prison] sentences, that’s when we’ve run out of ideas!” Sentencing Judge

[Sheriff], Scottish Government (2015) *Evaluation of Community Payback Orders, Criminal Justice Social Work Reports and the Presumption Against Short Sentences*  
p128

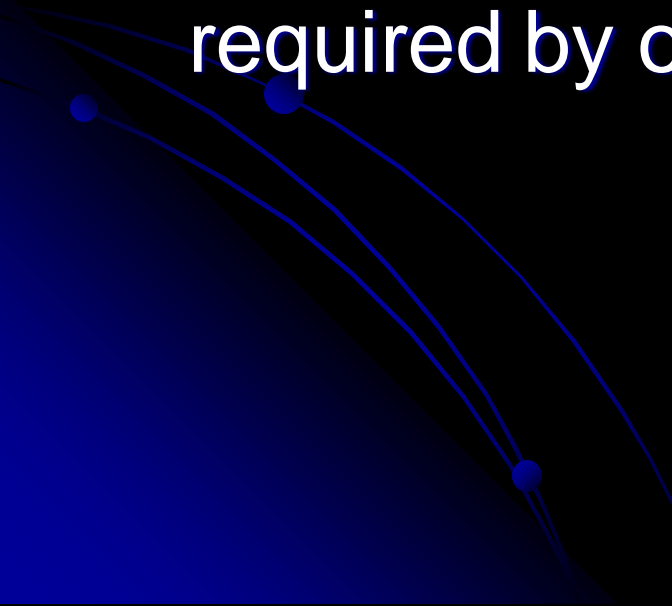
# Consequences



**'Last Resort' Has Let Govts Off the Hook:  
Individual Professionals are Left to Shoulder  
Impossible Burden of Chronic Societal Failures**



# Prison No Longer the Last Resort / Default

- ✓ Drop 'Last Resort': *Prison* must be justified
  - ✓ Prison Help/Rehab yes but only if required by offending
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## 2 Part Principle to End 'Last Resort' - Target Date (e.g. 2035)

1. Imprisonment can *only* be used *if* warranted by the seriousness of offending;  
*and*
2. Rehabilitation / help to address a person's needs should be *excluded as a ground for* recommending, suggesting or passing a prison sentence.





PALGRAVE SOCIO-LEGAL STUDIES

# Sentencing: A Social Process Re-thinking Research and Policy

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