

Criminal Justice Committee

**4th Meeting, 2021 (Session 6), Wednesday
15 September 2021**

Reducing youth offending, offering community justice solutions and alternatives to custody

Written submissions

1. The Criminal Justice Committee is holding a roundtable meeting about reducing youth offending, offering community justice solutions and alternatives to custody.
2. Written submissions have been provided by the following organisations and individuals—
 - Children’s and Young People’s Centre for Justice
 - Community Justice Scotland
 - Dr Hannah Graham, Senior Lecturer in Criminology, University of Stirling
 - Community Justice Scotland
 - Alistair Fraser, Senior Lecturer in Criminology and Sociology at the University of Glasgow
 - The Scottish Violence Reduction Unit
 - Police Scotland
 - The Promise Scotland
3. These submissions are attached.

**Clerks to the Committee
September 2021**

Written submission from the Children and Young People’s Centre for Justice (CYCJ)

CYCJ

The Children and Young People’s Centre for Justice ([CYCJ](#)) works towards ensuring that Scotland’s approach to children and young people in conflict with the law is rights-respecting, contributing to better outcomes for our children, young people and communities.

We produce robust internationally ground-breaking work, bringing together children and young people’s contributions, research evidence, practice wisdom and system know-how to operate as a leader for child and youth justice thinking in Scotland and beyond. We are hosted by the University of Strathclyde and primarily funded by the Scottish Government.

UNCRC

The incorporation of the UNCRC into Scots Law represents an important moment to reflect on our children in the justice system, and think about how compliant our policies and practices are with it. Article 37 of the UNCRC specifies the children should only be detained of their liberty as a last resort, and if so for the shortest period possible. Article 40 sets out that children should be presumed to be innocent until proven guilty according to the law, that those who are accused or guilty of breaking the law should be treated in a way which promotes their reintegration into society.

Scottish Government Policy

Scottish Government policy changed in 2011 when it introduced the Whole System Approach (WSA). This approach aimed to divert children from formal justice systems whenever possible. This is reiterated in their new vision and action plan ‘A Rights-Respecting Approach to Justice for Children and Young People’ that was published in June this year.

“It represents a shared foundation between the Scottish Government and partners to continue to support the agenda to keep children out of the criminal justice system and promote the use of the Whole System Approach”

The Promise

The Promise has 4 key areas in relation to youth justice:

- The disproportionate criminalisation of care experienced children and young people will end.
- 16- and 17-year-olds will no longer be placed in Young Offenders Institutes for sentence or on remand.

- There will be sufficient community-based alternatives so that detention is a last resort.
- Children who do need to have their liberty restricted will be cared for in small, secure, safe, trauma-informed environments that uphold their rights.

These are issues that CYCJ have raised for some time and were featured in our work around; offending in residential care, our ongoing work in the 16/17 cross systems working group to extend the remit of the children's hearing system to all children under 18, work to meet Scottish Government priorities under the WSA and the roll out of the secure care standards.

Children in Custody

It is of great concern that children aged 16 and 17 year olds in Scotland continue to be deprived of their liberty in Young Offenders Institutions (YOIs), and occasionally in prisons. It has been acknowledged that these settings are not appropriate for children; in both the Independent Care Review in '[The Promise](#)' and in the [Expert Review of Mental Health Services at HMP YOI Polmont](#), both of which the Scottish Government has agreed to implement. Whilst we have seen significant reductions in the number of children held in prison or YOIs over the past five years or so, the proportion of children held there on remand has escalated. In 2019 roughly half of all children in YOI/prison were there on remand, this increased to about two-thirds (64%) in 2020. For the partial year since Jan 2021, the proportion has been around 86% ranging from 76% (July 2021) to 94% (April 2021).

Children on remand have not had a trial so no offence specific work can be done with them during this time, which would imply [guilt](#). There are also restrictions on those who have been already found guilty and sentenced mixing with children presumed innocent, this means in practice that children on remand have less opportunities to access activities available in prison/YOI. Time on remand is therefore often referred to as wasted time, with children spending over 22 hours in their cells, often experiencing significant anxiety about what is going to happen to them and when their court case might be. The risks of self-harm, suicide, bullying and mental distress in YOIs and prisons, especially for those so young, is well known and well documented (see MH review), so there can be no doubt that we should do all we can to avoid this situation where we possibly can.

Pre-trial detention has been highlighted as a global concern for children, with estimates that about 75% of children deprived of their liberty for the administration of justice are in pre-trial detention ([Global Study on Children Deprived of Liberty](#)). It is a serious concern that the proportion of children on remand in Scotland is significantly now higher than this global average (which is presented as a concern not as a benchmark). Similarly, the proportion of children on remand in Scotland is significantly higher than the adult population, around 26% of adults (over 18 year olds) in prison/YOIs are there on remand, considerably less than the 88% of children (see [Scottish Prison Service daily population data](#)). Similarly, [data](#) from England and Wales suggests that around 28% of their children in prison custody were there on remand.

Alternatives to Custody

In 2020 CYCJ undertook research into the use of [bail and remand](#) speaking to children, families and professionals across the justice system. The study found that:

“Most children who went to a YOI reported feeling scared and intimidated when they were first remanded. They expressed disappointment at losing their liberty and a sense of frustration, and in some cases, shame with themselves for being in a YOI. One parent spoke vividly about how terrified and stressed they were for their child, who was the youngest in the YOI at that time and was considered still just “a wee boy”. Children recounted feeling isolated and stressed while on remand. The waiting and not knowing inherent in a period of remand was a specific source of stress”.

Data published by the Scottish Government highlights that on average children who are placed in a YOI/prison are in there for 2 months (see [table D3](#)). The fact they are only in custody for a couple of months highlights that most children are not in custody due to committing the most serious offences. It also suggests that children circle in and out of YOI/prison, implying that we could do something else, something better. Of course there some children for whom the deprivation of liberty is the only way of keeping them and others safe, and there is therefore a need to ensure our secure care provision is of the best possible standard for these children (see [Secure Care Pathways and Standards](#)). However, rather than spending two months in a YOI/prison, we could do much better for these children, their families and communities, if we properly resourced and supported community-based opportunities which really address these children’s needs and their risks of future offending.

CYCJ recently had structured discussions with social workers who had children on remand in our YOI in April 2021, about community alternatives to remand. They reported that:

- Mental health services were seen as key to preventing remands, yet many workers describe this type of support as being particularly hard to access, or not being flexible enough to meet the complex needs of very vulnerable children.
- Suitable accommodation was also seen as essential, and immediate access to bail accommodation was required. Social Workers also felt that services needed to be bespoke and flexible, and be offered out-of-hours if needed.
- Workers also expressed a desire for better communication through the court process as well as a more consistent consideration of alternatives to remand for children appearing in court, including consistency and transparency in decision-making. The Procurator Fiscal advising social workers that bail was going to be opposed in the morning was one suggestion to allow social workers to offer a suitable alternative to the Court.

Led by colleagues in the Scottish Government, CYCJ has recently written an annex on new supervised bail procedures to ensure that specific needs and children under 18 are supported and taken into account. This guidance is due to be published imminently.

Secure Care

Where a child has been assessed as needing to be deprived of their liberty, secure care should be utilised rather than custody. This is a fundamental aspect of the Scottish Government's WSA and emphasised by the Independent Care Review who concluded:

“Scotland must recognise that 16 and 17 year olds are children in line with the UNCRC and must be accommodated within Secure Care rather than within Young Offenders Institutes and the prison estate. This must include children who are on remand and those who have been sentenced. Being placed in prison like settings is deeply inappropriate for children”.

This is also supported by the evidence that secure care is a form of care, not punishment, which is deemed to provide more age-appropriate facilities, offering more relationship-based and therapeutic, trauma and attachment informed support, a far greater ratio of staff to children, and a more child-centred environment and design (Gough, 2016; Lightowler et al, 2014). In addition, in research children have identified the different benefits secure care can afford, and there are various differences between settings regarding the use of restrictive practices (Lightowler, 2020).

However, even where it has been assessed that a child requires to be placed in secure care this is not always possible for various reasons. Firstly, there are not always places available, with the current model for funding and commissioning secure care services meaning certain occupancy levels require to be [achieved](#). Demand for secure care placements in Scotland is volatile and at any one time, many children will be placed in secure care from outwith Scotland, with the need to end this practice a key recommendation of the Independent Care Review and one in which we have previously outlined [our](#) concerns. Secondly, there are legislative barriers to enabling all children aged under 18 for whom a placement in secure care has been deemed necessary and in their best interests to do so. The [routes](#) to secure care are complex and the inconsistent legislative definition of a child and limitations of routes to the Children's Hearings System for 16 and 17 year olds mean for some children there is no legal route to secure care. Finally, there are financial disincentives to the use of secure care, particularly for children on remand where these costs are met by the Scottish Government if a child is in custody and the local authority if the child is in secure care. We would echo the Justice Committee's concluding comments in 2020 “It should never be the case that a child or young person is sent to HMP YOI Polmont when a secure care unit would more appropriate to their needs”.

Children in adult Courts

In 2019-20, 1,208 children 12-17 years were proceeded against in adult court. During this year, only 7% of these children were remitted to the Children's Hearing System. This is a process where they can participate, as well as it taking cognisance of child's specific circumstances and needs. Many (between 60-70%) of children in the justice system have speech, language and communication needs and

often do not know what is happening to them, and they can lack the ability to actively engage in the process.

The Committee on the Rights of the Child, Concluding observations on the UK in 2016 stated that we need to “Ensure that children in conflict with the law are always dealt with within the juvenile justice system up to the age of 18 years”. This was also highlighted by the Promise in 2020. Scotland must consider how to ensure that children have the totality of their cases dealt with in an environment that upholds their rights and allows them to effectively participate in proceedings. Traditional criminal courts are not settings in which children’s rights can be upheld and where they can be heard.

This was summed by Lightowler (2020), in her report ‘[Rights Respecting? Scotland’s approach to children in conflict with the law](#)’, that many children in conflict with the law in Scotland “do not experience ‘justice’ in the true meaning of the word”.

For less than 5% of the children proceeded against in court in 2019-20 the outcome was a custodial sentence, and in fact around 16% of children were found not guilty. These figures highlight that for the vast majority of children there is a community-based outcome, which could be provided through the much more developmentally appropriate Children’s Hearing System rather than through the adult justice system.

Restorative Justice

CYCJ hosts a restorative justice coordinator to support the Scottish Government’s action plan of having restorative justice available to all children’s hearings. For victims, restorative justice can provide an opportunity to start the journey to recovery from harm, improve wellbeing and address any trauma caused. For a child responsible for a harmful act, participating can provide a chance to directly address the impact of the harm that they caused, and can be transformative in their moving away from offending. Involvement in any restorative justice processes is voluntary.

Recommendations

We would therefore recommend that:

- All children should have access to the Children’s Hearing System
- Community alternatives should always be considered as a priority for all children under 18
- Any form of detention should be as a last resort, thereby meeting UNCRC requirements
- If a child under 18 needs to be detained, then this should be in secure care and not a YOI or prison

Written submission from Community Justice Scotland

Community Justice Scotland (CJS) is the national leadership body for community justice in Scotland. We advocate for the use of high quality evidence-based interventions for people involved in offending, delivered in partnerships involving statutory and non-statutory bodies including the third sector, communities and people with lived experience, because the evidence tells us that is the best route to reducing offending and making Scotland a safer, healthier nation. We support the use of resources to target prevention of offending, to help address needs and risks before offending happens, prevent victimisation, and to help people have better lives in happier, healthier communities.

CJS sit on the Youth Justice Board, supporting delivery of the [Youth Justice Vision](#). We supported the move to increase the minimum [age of criminal responsibility](#), and [reform of the disclosure system](#) to help people with convictions move on from offending and gain employment and access to education, enabling them to participate fully as citizens. Alongside Social Work Scotland, we contributed to Scottish Government's guidance for [Structured deferred sentences \(SDS\)](#), which provide an opportunity upon conviction and prior to sentencing for the convicted person to work with services to address multiple identified issues.

We hold the view that the most effective responses to youth offending are not in the justice system – rather they can be found in supports and services that respect children's rights and recognise their strengths, identify and address needs, and support wellbeing and recovery for children, young people, their families and communities. Agencies must collaborate to create every opportunity to take children and young people in conflict with the law out of the justice system, reduce harm and retraumatisation, lessen stigma and criminalisation, and prevent future offending.

Community Justice measures

Discussions about youth offending often centre around offences of the greatest severity, those which elicit greatest involvement with criminal justice agencies and processes. This skews discussion toward risk assessment and mitigation, punishment and the adult criminal justice system. This does not reflect the fact that much of the behaviour by children and young people in conflict with the law is at the lower end of severity and harm, in many cases associated with transitional stages of development characterised by immaturity and impulsivity. It also does not recognise the high levels of repeat victimisation and trauma experienced by children and young people in conflict with the law.

Research conducted to inform the Scottish Sentencing Council's development of a guideline for sentencing young people relates the finding that emotional and cognitive maturity is not achieved until age 25, and that this is further complicated where one considers the likely impact of trauma from abuse, neglect, or other adverse experiences¹ on brain development and cognition. It is vital to bear this context in mind when reflecting on policy and practice related to children and young people, at every point of contact throughout the justice system.

The evidence indicates that for children and young people, formal justice interventions can contribute to criminalisation, in practice hindering their ability to move on from offending while also creating a potentially indelible record of mistakes they have made, and an associated stigma that may follow them long into their future. As they move through life

¹ [The development of cognitive and emotional maturity in adolescents and its relevance in judicial contexts \(scottishsentencingcouncil.org.uk\)](http://scottishsentencingcouncil.org.uk)

seeking to participate as full citizens in education, employment and more, they will regularly be reminded of their lowest moments and often retraumatised². For much offending, the services and supports most vital in responding to harm and reducing recidivism are likely lie outwith the justice system, and seek to support emotional, mental and physical health, relationships and family, security and stability. In some cases, the justice system should seek take a step back and facilitate these service responses.

Diversion

Given the criminalising effect of the criminal justice system on children, and the need to target court processes where they are most needed and will give greatest public benefit, the justice system has to be able to consider where alternative routes are more appropriate. Diversion from prosecution provides one such alternative. The aims of diversion from prosecution are:

- To provide a disposal which, due to the circumstances of the individual and the circumstances of the alleged offence, provides an appropriate person-centred response;
- To enable a swift intervention, which can interrupt a cycle of offending and/or prevent further offending.

Working with a range of justice partners, CJS co-produced guidance³ on where it is most appropriate and effective to use diversion. If the circumstances and nature of the offence are such that it is possible and appropriate to divert children from criminal justice proceedings, a resolution to the crime should be sought outwith court.

A successful diversion from prosecution can have significant benefits. The young person may access support to deal with the issues personal to them in the context of the alleged offence, avoid unnecessary contact with the criminal justice system, and it will not result in a conviction that would potentially hinder their future opportunities.

Structured Deferred Sentences

Community Justice Scotland's Community Justice Outcome Activity [annual report](#) for 2019 highlighted good practice in SDS. We recommended that Community Justice Partnerships should ensure that early opportunities to address needs within the justice system are maximised through the increased use of SDS, amongst other related measures such as Bail Supervision and Diversion from Prosecution.

Independent evaluation of SDS work in North and South Lanarkshire found that more intensive, bespoke support for young people, with a centre on relationships and an understanding of poverty and environment as contributing factors, can work well in enabling young people at risk of further offending to find stability, recovery and move away from chaos⁴. For convicted young people, SDS can provide an opportunity to show progress in working with services to address multiple needs and vulnerabilities, and if the requirements are fulfilled and progress shown, this can be taken into account at the final sentencing.

Community not Custody should be the default option

Custody should be used only where an imminent risk of serious harm is evidenced and therefore necessary in the interest of public protection, where no other option is

² [To the people who don't see me, but see my convictions - Kim McGuigan | Community Justice Scotland](#)

³ [Diversion-from-Prosecution-Guidance-Version-4.0-FINAL-VERSION-April-2020.pdf \(communityjustice.scot\)](#)

⁴ Miller et al (2019) [Evaluation of South Lanarkshire structured deferred sentencing for young people: end of project report September 2019 — The UWS Academic Portal](#)

appropriate. Where custody is required for children under 18, it should be in the form of secure care, not prison⁵.

For any citizen, the deprivation of liberty in the form of incarceration is the ultimate punishment. Being placed in custody either at remand or sentencing exposes children and young people, already vulnerable by virtue of their age and stage of development, at risk of significant harm. Children who become involved in offending have often experienced significant adversity in their lives prior to coming to the attention of the criminal justice system. Many will have needs relating to mental and physical health, the impact of previous trauma, and the retraumatising experience of navigating the complex and intimidating criminal justice system as an 'offender'. Prison custody is not an environment conducive to the treatment of these needs, and may foster significant further harm. For these reasons, prison custody should not be used for children, and should be used for young people only where absolutely required for public protection.

Electronic Monitoring

Electronic monitoring, in its various forms, can be of use as a means to monitor young people as part of a community sentence or supervised bail.

Though narratives sometimes minimise such interventions as being 'soft justice', electronic monitoring is punitive, with obvious implications for personal liberty, and it is experienced as punishment. Wearers report feeling stigmatised, scrutinised, and anxious about potentially breaking the conditions of their monitoring requirements and incurring further consequences⁶. Families of a young person being monitored also experience this stress. This means that electronic monitoring should not be treated as a benign intervention, but should only be used with children and young people where absolutely necessary and appropriate, and not without other support in place.

The use of electronic monitoring for a child or young person should take into account likely adverse consequences, and efforts should be made to mitigate them. Assessment of need should take into account the young person and their environment and family needs, and wraparound support should be provided where required.

Restorative Justice

CJS coordinate and support activities in the delivery of the Scottish Government's Restorative Justice Action Plan. The opportunities afforded by a restorative justice process and the associated outcomes for wellbeing and recovery of the person harmed, the person who caused the harm and a community experiencing the wider impact are not routinely available within the criminal justice system. For victims, restorative justice can provide an opportunity to aid recovery from harm, improve wellbeing and recovery from trauma. For a child or young person responsible for a harmful act, participating can provide a chance to directly address the impact of the harm that they caused, and can be transformative in their moving away from offending. RJ should be delivered by experts, attuned to the needs of the participants, principles of informed consent, trauma, risk, and support throughout and following the process⁷.

RJ is not and must not be seen as a 'soft' option. It is often intensely challenging for someone to take personal responsibility for harm they have caused, and to choose to engage directly with the person who suffered in a restorative justice process. CJS, along

⁵ [Scotland needs to live up to the 'Promise' to stop locking up children – Karyn McCluskey | The Scotsman](#)

⁶ Mclvor & Graham (2016), [Electronic-Monitoring-in-Scotland-Report.pdf \(sccjr.ac.uk\)](#)

⁷ [A Guide to Youth Justice in Scotland: policy, practice and legislation \(cycj.org.uk\)](#)

with the Children & Young People's Centre for Justice (CYCJ) have produced a short film about restorative justice in Scotland, how it can help and how it can work, to raise awareness of this important service: [Restorative Justice: repairing harm in Scotland](#).

Victims

Support for victims must be available regardless of what measures are taken to address the behaviour of the child or young person involved. Where this involves taking proceedings out of the criminal justice system, for example through diversion or referral to the Children's Reporter, careful consideration must be given to what victim support is required. This should include asking what the victim wants and needs, the provision of timely information about proceedings and decisions that will affect them and their journey to recovery, and access to expert victim-centred services to address trauma, and access restorative justice if they so choose.

Life journeys and lived experience

When considering youth justice, it is important to reflect on those involved not only as children and young people in conflict with the law, but as members of families and communities, and people who have a lifetime of potential ahead of them. It is vital that language used, policies and interventions take this into account. We need to understand that for this group, the offending itself is in part the product of the process of growing up, often in reaction to challenging circumstances.

Our research '[Rules for Them, Rules for Us](#)' highlights how traumatic, confusing, inaccessible and hostile the justice system can appear to those whose lives it touches. This is how it is experienced by children and young people.

Our [Second Chancers](#) campaign showcases the stories of some people whose lives have been influenced by contact with offending and the justice system, as victims, people who have come into conflict with the law, and workers supporting people through their journeys. These audio-visual exhibits capture some of the lived experience of people who became involved in the justice system, experienced community justice measures, and want to share what they've learned. All stories are available at [secondchancers.tv](#)

[Second Chancers - Jenny's Story](#)

Jenny spent much of her youth in and out of the justice system. She now has a degree in Criminal Justice, and is training to become a support worker.

[Second Chancers - Jordan's Story](#)

Jordan experienced significant adversity from an early age, and found himself homeless at 13. He now works with young people who have also experienced trauma, who are in acute distress and have behaviour which puts them at risk of being drawn into the criminal justice system, and helps them to use music to explore and enable their own recovery.

[Second Chancers - Ross's Story](#)

Ross is a social worker, supporting young people involved in offending. He talks about how understanding the lives of young people, their communities, and working with them through justice processes like Structured Deferred Sentences, can help them move away from offending.

Written submission from Dr Hannah Graham, University of Stirling.

I welcome the opportunity to make a brief submission to the Committee, which is written in an individual capacity as a criminologist working in academia. This submission focuses on the contexts of community justice and health and welfare. It offers analysis of policy documents and official statistics¹. The referenced sources cited throughout are available on request.

1. Background Context

Reducing Scotland's high use of incarceration has been discussed for years, as have the range of potential options and strategies seeking to do this and shift more towards communities (see [Scottish Prisons Commission, 2008](#); McNeill, 2018; [Graham, 2020a](#); 2020b²). Who has the power to influence and the responsibility to decide on imprisonment or community options (and the resources and policies guiding that) has stayed stable: the judiciary, prosecution (COPFS), Scottish Government, and Scottish Parliament. Yet real change and sustainable solutions will not be found wholly within the confines of the criminal justice system. We cannot punish or control our way out of wider social issues and inequalities.

Community justice, Justice Social Work and probation have been characterised as having a 'Cinderella complex,' as less visible and lesser understood parts of the criminal justice system, compared to police, courts and prisons ([Robinson, 2016](#); McNeill, 2018; [Montgomery and McCluskey, 2021: 6](#)). The budget for community justice comprises just 4.7% of the total Justice budget in Scotland ([Community Justice Scotland, 2021](#)). Yet community justice and the capacity to supervise and support people in the community are an area of increasing political, policy and professional focus. There are many positive examples and good reasons to do this.

However, here, I wish to highlight a poignant and important issue within community justice that really has, to date, been invisible and profoundly under-researched in Scotland; whereas research has been done on it in the context of probation and parole in England and Wales, particularly by colleagues Phillips (2018, 2019, 2020), Gelsthorpe and Padfield (Phillips et al., 2016, 2017, 2018, 2019). It is worth acknowledging at the outset that discussion of the numbers of deaths in this submission is grounded in a recognition of their humanity and bearing witness to the gravity of their passing and the likely impact on grieving families.

2. Deaths in Community Justice: People Dying on Community Payback Orders (CPOs)

Though various types of community orders and licences exist, this submission focuses on one: Community Payback Orders are the most common type of social work order in Scotland, with 16,700 CPOs commenced in a one-year period of 2019-

¹ The main official statistics cited here are from the *Criminal Justice Social Work Statistics* dataset by Scottish Government Justice Analytical Services, used with attribution ([Scottish Government, 2021](#)). This submission reflects my own, independent views. Any errors made in interpreting or presenting their statistics are my responsibility. There is no funding or financial interests to declare for this submission.

² Graham, H. (2020) 'Changing Scottish Justice will take Courage and Cooperation' (Chapter 26) in Hassan, G., and Barrow, S. (eds.) *Scotland After the Virus*, Edinburgh: Luath Press.

2020 (Scottish Government, 2021). The vast majority (96%) of CPOs are imposed in Sheriff Courts through summary procedure.

In the most recently available annual statistics – that is, the one year period (2019-2020) – 188 CPOs were terminated by reason of death, from a total of 16,700 CPOs commenced in Scotland in that period ([Scottish Government, 2021](#)). The crude mortality rate for Community Payback Orders may be approximately 1,125 deaths per 100,000. For the general population of Scotland who are aged under 75 years old, the age-standardised mortality rate in 2019 was 425 deaths per 100,000 ([National Records of Scotland, 2021](#)). While caution is needed in calculating and comparing death rates, this *suggests* the death rate is higher in community justice than the general population, which is consistent with research findings in other nations.

Furthermore, over a seven year period (2013-14 to 2019-20), there have been a total of 1,178 CPOs terminated by reason of death (Scottish Government, 2021), which is a relatively high number in light of the ages of people subject to CPOs (often aged in their 20s, 30s, 40s).

Certain characteristics and circumstances are clear in Scottish Government (2021) statistics:

- *Sex differences:* In the one year period of 2019-2020, the total of 188 CPOs terminated because of death are reported as 42 females (22.3%) and 146 males (77.7%). Across a seven year period (2013-2020), there has been a gradual but steady increase in the total numbers of females dying on CPOs, from 17 in 2013-2014 to 42 in 2019-2020.
- *Age differences:* The majority of deaths on CPOs are among younger adults: for example, in the one year period of 2019-2020, 61.3% were aged between 16-40 years old.
- *Differences in employment status:* Across a seven year period (2013-2020), it varies a little by year, but between 6–13% of those who died on CPOs are reported to be employed or self-employed. Those who are in full-time education are 0.0–1.0%. The majority of those who died are reported to be unemployed or not seeking employment (which includes retired, supported by family, caring for home/family, or long-term sick/disabled).

Localised differences: Local authorities with the highest numbers of CPOs ended because of death over a seven year period (2013-2020) are: Glasgow (n = 142), Fife (n = 95), North Lanarkshire (n = 95), Aberdeen City (n = 78), South Lanarkshire (n = 65), Highland (n = 53), and North Ayrshire (n = 51). Conversely, local authorities with the lowest numbers in the same period are: Orkney Islands (n = 3), East Renfrewshire (n = 4), Shetland Islands (n = 4), Argyll and Bute (n = 7), East Lothian (n = 7), and Midlothian (n = 9) (Scottish Government, 2021).

What are the leading causes of deaths on CPOs? This is not known. Within the Criminal Justice Social Work statistics dataset, cause of death is not recorded, nor is that information available elsewhere for this and other types of community sentences. In contrast, probable cause of death information is available annually for

(a) deaths in prison custody in Scotland, [Scottish Prison Service, 2011-2021](#), and (b) 'deaths of offenders in the community' in England and Wales, [Ministry of Justice, 2016-2020](#). In England and Wales, people on probation supervision are 8.67 times more likely to die by suicide than people in the general population and 1.42 times more likely to die by suicide than people in prison ([Phillips et al., 2018](#)).

Poverty, inequality, and class fundamentally influence life chances and deaths in Scotland. There is a 20+ year gap in healthy life expectancy between people in the least and most deprived areas ([National Records of Scotland, 2021](#)). People in the most deprived communities are: 18 times more likely to die by a drug-related death; 4 times more likely to die by alcohol; 3 times more likely to die by suicide; and 2 times more likely to die by COVID, than those living in the least deprived areas ([National Records of Scotland, 2021](#)). The heartache of avoidable deaths and bereavement is not experienced evenly across Scottish society. Information from the Care Inspectorate (2013, 2018) indicates that drug deaths and suicide are among the deaths of people on community orders and licences, but there is currently insufficient and inconsistent data collection to verify and map this out with any precision. Health and social inequalities are known to feature in the lives of those sentenced to CPOs (McNeill, 2018; Community Justice Scotland, 2019). Research findings from elsewhere show marked health and social inequalities and class disparities among people subject to probation supervision, including among those who die while on an order or licence ([Phelps, 2021](#); [Wildeman et al., 2019](#); [Gelsthorpe et al., 2012](#)).

3. Scrutiny, Reporting Criteria, Under-Reporting of Deaths and other Serious Incidents

The Care Inspectorate is the body with responsibility for scrutiny for Justice Social Work services, provided through local authorities. There is [agreed guidance](#) on what constitutes a serious incident and the notification and review procedures and timeframes, and, every several years, the Care Inspectorate (2013; 2018³) publishes a report on these figures and themes. Types of serious incidents include: reoffending which has caused serious harm (such as serious assault causing severe injury, stalking, sexual offences), murder or a murder victim, suicide, death by other causes (e.g., accident, drug death), abduction, possession of a firearm.

The number of deaths of people subject to statutory supervision (spanning eight types of orders and licences, including but not limited to CPOs) being reported to the Care Inspectorate by local authority Justice Social Work services through serious incident review notifications is considerably lower than the actual number of deaths on orders recorded in official statistics. Such under-reporting can be illustrated by comparing numbers of deaths on CPOs by local authority (i.e. just one order type), with the total number of serious incident notifications (for any reason, let alone specifically for death) reported by local authority to the Care Inspectorate (2018: 5) for the same or a similar timeframe. This shows that:

³ Care Inspectorate (2018) *Criminal Justice Social Work Serious Incident Reviews: An overview of themes arising from notifications submitted between February 2015 and December 2017*, Dundee: Care Inspectorate. Available online at: <https://www.careinspectorate.com/index.php/publications-alphabetical/81-professionals-registration/serious-incident-reviews>

- In the three year period of February 2015 to December 2017, eight local authorities each submitted a total of zero (0) serious incident notifications (for any reason, including death) to the Care Inspectorate (2018: 4-5). Over that period they each reported Community Payback Orders terminated by reason of death to the Scottish Government (2021).
- In the three year period of February 2015 to December 2017, across all 32 local authorities combined, the Care Inspectorate (2018: 6) was notified of a total of 55 deaths of people on orders and licences (2 murder victims, 10 suicides, and 43 other deaths). In contrast, Scottish Government (2021) official statistics report hundreds of deaths on CPOs spanning this same time period (not including other orders and licences). The exact month of counting periods are not the same between the two sources, but there were over 320 CPOs terminated by reason of death in two of those year periods (2015-2016, 2016-2017).

In general, local authorities under-reporting serious incidents involving people on orders and licences has been a known issue for years, directly identified by the Care Inspectorate in their Serious Incident Review report in 2013 (pages 9-10) and again in 2018 (page 11).

Why might Justice Social Work services in local authorities not notify the Care Inspectorate of the deaths of people on CPOs? The criteria in the Care Inspectorate (2017: 2) guidance states 'a serious incident review (SIR) should always be carried out when: an offender on supervision has died or been seriously injured in circumstances likely to generate significant public concern.' Notification of a serious incident to a scrutiny body being contingent on generating 'significant public concern' is problematic in my view and should be questioned. Public outcry and negative press coverage are not sound measures of the seriousness of the loss of a human life nor should they be a deciding factor in whether or not that death and its circumstances are counted and scrutinised. In some cases, the first days of grieving (five day notification period to the Care Inspectorate) and stigma of their loved one having convictions and justice involvement may affect the willingness of bereaved family to raise concerns publicly. Less publicly visible deaths may not be consistently reported and reviewed.

Scrutiny bodies have an important role in investigating services and how people are treated, taking an approach that encompasses prevention, risk management, and harm reduction. Drug use and addiction provides a timely example in light of drug deaths. In England and Wales, HM Inspectorate of Probation (2021) undertook a joint thematic inspection (with the Care Quality Commission and Health Inspectorate Wales) of community-based drug treatment and recovery work with people on probation. A survey conducted as part of the inspection found sentencers (n = 449 magistrates) were animated in their concern about drug-related harms and crimes, but nearly six out of 10 (57%) of those magistrates said they were 'not very' or 'not at all' confident that probation was delivering drug misuse services well. Of the 60 cases inspectors reviewed of people on probation with a drug problem, most were known to drug treatment services, but work by drug agencies was only noted in 10 of those cases and, of all 60 cases none had reduced their offending (HMIP, 2021: 8). A number of recommendations were made. Joint inspections like this yield

opportunities for well integrated scrutiny of services and partnership work with people involved across (or who need access to) multiple systems.

Regarding other types of scrutiny, every death in custody in Scottish prisons may lead to a Fatal Accident Inquiry (FAI), whereas that is not the case for deaths on community orders. In England and Wales, Phillips et al. (2019) emphasise the role of human rights laws in relation to deaths on probation, protecting vulnerable individuals, learning from coronial investigation to prevent future deaths, and access to mechanisms to hold the State to account.

Considering the leadership of integrated oversight and collaborative responses, the Scottish Government [Health and Justice Collaboration Improvement Board](#) priorities have been victims, prisons and mental health. If this Board reconvenes or if a similar, new Justice-Health body or collaborative initiative is formed, community justice should be considered as a priority.

4. Conclusion

The purpose of highlighting these figures and issues is not to allege or cast doubt on community justice services and practitioners. To rush to judgment would be to obscure the reality of their important roles in responding to this issue, and the otherwise likely deaths that may potentially have been prevented because of good supervisory relationships and the work that they do. It might also constitute an overreach of what can reasonably be inferred from limited official statistics alone. One of the challenges of discussing these statistics is the recognition that certain types of services (Justice Social Work, Local Authorities) are mentioned extensively because of the nature of the sources being cited, yet premature and avoidable deaths quite possibly implicate interdisciplinary and inter-connected issues, such as questions of availability and access to various other types of services not mentioned extensively here (e.g., community mental health services, alcohol and drug treatment, GPs, employability and third sector services). Community Justice Partnerships have health and social care partners precisely because the needs of individuals and local communities extend outwith Justice. Where deaths in community justice do occur, there is an important need to ensure that affected practitioners have access to their own support, if and when they need it.

Much more information about the lives and deaths of people on community orders and licences in Scotland needs to be routinely collected and publicly reported by relevant authorities and scrutiny bodies, as well as explored by independent researchers. This should include but transcend inspections or investigations. Where they are willing to be contacted, it would be beneficial to know more about the views and experiences of bereaved families, too. We cannot meaningfully understand or change what we do not know.

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Written Submission from Dr Alistair Fraser [PI] & Dr Fern Gillon (University of Glasgow), Dr Keir Irwin-Rogers & Luke Billingham (Open University), Prof Susan McVie (University of Edinburgh) & Prof Tim Newburn (LSE) – Public Health, Youth & Violence Reduction (PHYVR) study

This submission relates to the consultation request for evidence on the “*efficacy of Scottish-based solutions to tackle violence and crime, such as the Violence Reduction Unit, and the policing of youth crime and community-based alternatives to prison*” drawing from a new research project titled Public Health Approaches, Youth and Violence Reduction (PHYVR) [<https://changingviolence.org/>].

PHYVR responds to the urgent social problem of rising youth violence by seeking to establish a new evidence-base on public health approaches to violence reduction, and the ways such policies transfer between jurisdictions, to shape policy, guide best practice, and inform public debate. This three-year project is funded by the Economic & Social Research Council (Grant Award ES/T005793/1) and commenced in December 2020. The project has support from the Scottish Government, Home Office, Scottish and London VRUs, Police Scotland, Metropolitan Police among others.

The objectives of the project are to: (1) establish an expert-led appraisal of 'what worked' in violence reduction in Scotland, triangulating explanations with both qualitative and quantitative data; (2) analyse the development of the public health approach in London, evaluating the factors that are promoting or impeding change; and (3) synthesise and mobilise evidence from Scotland and London to establish a new knowledge-base on public health approaches to violence reduction.

I. Context

Between 2006/7 and 2014/15, police recorded crime statistics show that non-sexual violent crime in Scotland decreased by 52%. This included a 49% fall in homicide and a 49% fall in attempted murder and serious assault. The reality of a major drop in violence during this period is confirmed through data published from other sources, including hospital admissions and victimisation surveys.

However reductions are not across the board. Changing patterns of victimisation show large reductions in risk amongst 'one-off' victims of crime, but no reduction amongst repeated victims of violence, and while prevalence of violence in most communities has halved there has been little change in the most deprived communities. Moreover, since 2014/15 there has been a steady increase in violent crime recorded by the police in Scotland which raises questions about the long term effect of any violence reduction strategies.

There is a lack of clear understanding of 'what worked' (and whether it is 'still working') in the Scottish context. While there have been particularly large declines in youth violence, the mechanisms that have driven this decrease are poorly understood.

II. Methods and data

PHYVR will generate 100 qualitative, semi-structured interviews with a cross-section of policy actors, youth practitioners and grassroots voices; 200 hours of ethnographic observation with youth practitioners and policy actors; documentary analysis of 15 years of policy debate; and secondary analysis of a wide range of relevant statistical data. These data and methods will be mobilised to promote bottom-up, evidence-based change in policy, practice and public debate.

As of 6 September 2021 the project has completed: a) literature review of international evidence on violence reduction; b) mapping exercise of key stakeholders in Scotland and London; c) seventeen qualitative interviews with stakeholders in Scotland and London; d) draft documentary analysis of policy change in Scotland; and e) an audit of available secondary data in Scotland and London.

III. Response to Request

The study is not yet at a sufficiently advanced stage to make definitive statements pertaining to the request. Despite evaluations of specific interventions (e.g. Williams et al 2014) the VRU has not been subject to independent evaluation at a programmatic level, and as such assessments of efficacy are difficult to evidence. Pending the development of new evidence the following should therefore be regarded as tentative .

It is widely accepted that the Violence Reduction Unit (VRU) has played a leading role in the changed landscape of violence reduction in Scotland, particularly violence between young people in the central belt. Historically, violence in Scotland has been strongly associated with the use of bladed weapons. The VRU was established with a specific aim of reducing these epidemic levels of knife crime and homicide, with a core component focusing on group-based, territorial violence. Recorded crime figures since the mid-2000s reveal a marked decline in weapon-related incidents in Scotland, primarily in weapon-related incidents involving young men in public spaces (Skott and McVie 2019). It is striking that Scotland is now viewed internationally as a leader in violence reduction, rather than in violence.

The work of the VRU is underpinned by a Public Health Approach. Public Health Approaches frame the problem of violence not as an individual pathology but as a public health epidemic, with a range of social, cultural, and economic causes. As such, they extend responses to violence beyond law-enforcement, to health, social care, education, youth services, and third sector organisations. In addition, public health approaches conceive of members of the public not as passive recipients of professional-led responses, but as active partners in problem-solving (Fraser & Irwin-Rogers, 2021).

It is notable that the development of the PHA and work of the VRU more broadly mirrored a shift in Scottish political rhetoric in relation to justice, which has moved toward prevention and early intervention (e.g. increasing the age of criminal responsibility). The VRU's work drew from and was complemented by a shift toward early intervention in public health, led by the Chief Medical Officer, and a growing emphasis on early years intervention in education and public policy. The VRU has also been partly or fully responsible for the proliferation of a range of other health-

based interventions to reduce violent victimisation, such as the Medics Against Violence initiative.

There were other parallel changes over this period that may have impacted on violent crime including new policy frameworks – e.g. a new youth justice process, changes to school exclusion policies and the introduction of a new Getting it Right for Every Child framework – as well as wider social and cultural changes that impacted on young people in particular e.g. digital transformations and social media use. Similar trends in violence reduction have also been observed in other jurisdictions, which bears further exploration.

We are investigating the hypothesis that the VRU's significance is partly rooted in policy leadership and systems change at a cross-sectoral and societal level. Rather than a set of clear-cut interventions, the Scottish approach has been characterised as a 'whole-system, cultural and organisational change' (Youth Violence Commission 2018). We anticipate the development of a multi-level analysis incorporating a dynamic interpretation of political, social, cultural and community change at national and local levels.

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Written submission from the Scottish Violence Reduction Unit

I refer to your email of 27 July 2021 regarding the above and should be pleased to accept the invitation to provide evidence at the roundtable session of 15 September. In accordance with the offer to provide written evidence in advance I would provide the following information for your consideration.

The Scottish Violence Reduction Unit (SVRU) was formed in 2005 with a vision of tackling violence in a different way. Scotland had long contended with the issue and our traditional method of approach in this respect was to attempt to suppress violence through enforcement and sentencing. Sadly, evidence suggested that this approach was not effective.

The launch of the SVRU coincided with the publication of a report by the World Health Organisation which identified violence as a public health issue. Thus the SVRU adopted a public health approach and sought to identify the causes of violence and address these rather than deal with violence as it presents in society. To effectively do that numerous agencies require to play a part, not just those in the sphere of justice.

In 2005 there were 137 homicides in Scotland, last year we had 64. Indeed, across all measures violence has fallen over this period. Whilst there are many factors that have assisted in bringing about this reduction, I would contend that the SVRU and our numerous partner agencies have made a significant contribution to that decline. 64 homicides, however, underlines the fact that much remains to be done.

From the outset, our aim was to break the cycle of violence that has blighted the lives of so many young people in this country. Numerous initiatives have been launched with that goal, some of the key projects are summarised below:

Community Interaction to Reduce Violence (CIRV) (2008-2012)

CIRV was a programme run in conjunction with Strathclyde Police and numerous external partners. Based on the 'Boston Ceasefire' in the USA, CIRV was created to address territorial gang violence that had been evident in Glasgow for generations. Featuring a series of 'Call ins', gang members were identified and offered an alternative to a gang identity and a life of fear and violence. It was extremely successful and greatly reduced the levels of gang violence in the City which have remained at a much lower level since.

Mentors in Violence Prevention (MVP)

MVP is Scotland's largest anti-violence schools programme, adapted by the SVRU from an American programme. It is now delivered in secondary schools across Scotland by Education Scotland and is available in the majority of our local authority areas. MVP empowers students to safely speak out against all forms of violence from rape and sexual harassment to bullying and abusive behaviour. Based on a 'bystander' approach, MVP motivates young people to get involved in safely challenging abuse. This highly evaluated programme trains senior school pupils in 5th and 6th year to act as peer mentors who then deliver sessions to younger

students in the school. Since 2014 over 11,000 mentors have been trained and 3,500 sessions were delivered across Scotland in 2018/9. MVP has also been adapted to work in higher education settings, the workplace and within the night-time economy.

Street and Arrow

Created by the SVRU and now operated by the charity Braveheart Industries, Street and Arrow is based on the ethos of Homeboy Industries in Los Angeles. As well as providing food for its customers, Street and Arrow provides second chances for its employees. People with convictions find it difficult to get into work. Consequently, our employees are provided with 12 months of paid employment where they are paired with a mentor or 'navigator' who helps them to master everything from basic employment skills through to debt management and dealing with addiction. For employees, being offered a job and associated support can be life changing. Since launching in 2016 over 40 trainees have taken part in the programme with support continuing when they move into employment after graduating. The stories of change are remarkable. Street and Arrow has shown that the provision of employment can be one of the greatest factors in preventing people from falling back into offending and addiction.

Navigator

Having successfully deployed Navigators at the Street and Arrow project, the SVRU have examined the success of the approach in other settings. Firstly, in conjunction with the charity Medics Against Violence, navigators were placed in accident and emergency units at 4 hospitals in the central belt of Scotland. The aim was to stop the revolving door of violent injury. Navigators compliment the work of medical staff by engaging with those who have been affected by violence using a wide range of contacts to help the patient change their life. This programme has now expanded to other hospitals across the country and is being operated by the charity themselves.

More recently, the SVRU have utilised the Navigator model in Bowhouse Prison in Kilmarnock in partnership with the three Ayrshire Councils and the charity 'We Are With You'. Navigators have also been deployed at Kirkcaldy Police Station in a custody setting in partnership with Police Scotland and SACRO.

You Decide

The Navigator/Mentor approach is being further developed within North Glasgow where a 'You decide' team has been created as part of a SVRU place based approach in that area. The team work with individuals who are contending with addiction, social isolation or a violent lifestyle and help them to regain control of their lives. The team also offer mentoring assistance to charitable groups and other agencies in the area dealing with young people who are struggling to cope with a whole range of issues. The St Giles Trust are assisting us to train new mentors to enable us to build on this approach.

A Place Based Approach

Whilst the SVRU has traditionally been based in Glasgow, since 2018 we have developed programmes elsewhere in Scotland and have now established bases in Edinburgh, Dundee and Ayr where we work with numerous agencies to utilise the skills and knowledge obtained over 16 years of operation to develop programmes aimed at diverting young people from the justice system.

Adverse Childhood Experience/Trauma Informed Practice

Many of the projects developed by SVRU have been based on an understanding that for many young people a life of criminality and addiction is dictated to them from a very early stage, if not pre-birth. The study of adverse childhood experience, which was brought to Scotland by the SVRU in 2006, identified 10 factors, including emotional and physical neglect, domestic abuse or addiction, which could negatively impact a child's development and make them more likely to embark on a self-destructive path. The SVRU has delivered training courses enabling organisations to become aware of 'childhood trauma' and its impact on an individual. As a result, there is a far wider understanding of the issue and Scotland aims to become a 'trauma informed nation'.

This understanding can be utilised for wider benefit. For example, Glasgow City Council introduced a more trauma informed approach to the issue of school exclusion and recently highlighted that an 81% reduction in school exclusion equates to a 48% reduction in youth crime in the City.

Understanding the Causes

From the outset, the SVRU has attempted to examine the underlying causes of violence rather than merely look at how violence presents. The study of adverse childhood experience was key in understanding why so many young people are drawn into a life of violence. To address the issue there is a need to involve a great many agencies and develop a co-ordinated approach, the public health approach. This can also apply to numerous other issues such as alcohol, drug or gambling addiction. Despite this we tend to tackle each in isolation without examining the commonality. Indeed, like our traditional approach to violence, we tend to look for methods of addressing the issue as it presents rather than dealing with the root causes.

For many years it has been highlighted that across a full range of measurements our poorer communities, our areas of multiple deprivation, have the worst outcomes. This was recently evident in the statistics relating to COVID but has been highlighted for years through statistics relating to educational attainment, health, addiction and violence.

The Christie Commission report of 2011 stated that there was a need to address the twin issues of 'intergenerational poverty and low aspiration' in order to deliver better outcomes. Based on 16 years of experience the SVRU would subscribe to that view. As one of our street and arrow trainees has said 'there was a lethal absence of hope in my life'. I have recently heard Sir Harry Burns, the former Chief Medical Officer say that the issue is not one of 'poverty' but of 'hopelessness'.

In order to deliver a true reduction in youth offending and related issues we need to provide our young people with an alternative, we need to provide them with hope and opportunity. Thus the key to so many of our problems is the need to address poverty!

Alcohol

The association between alcohol and violence has long been established with alcohol-related violence causing substantial death, injury and health problems. In Scotland:

- Alcohol-related crime is estimated to cost £727 million each year.
- 42% of all people accused of homicide over the last ten years were under the influence of alcohol.
- In 25% of violent crime, the victim had been drinking.
- 1 in 5 prisoners got drunk daily or almost daily before being imprisoned.
- Two in five (39% of) prisoners report being drunk at the time of their offence, rising to over half (53%) for young males in custody.
- Between 18-34% of those in police custody have alcohol problems (mostly at the dependency end of the spectrum).
- Nearly three quarters (73%) of male prisoners have an Alcohol Use Disorder with 36% possibly dependent.
- 19% of prisoners worry that alcohol will be a problem for them when they get out of prison.

Alcohol Monitoring Technology

The SVRU has been long term supporters of continuous alcohol monitoring (CAM) as an alternative to custody. This is based on the identification that alcohol addiction is an illness, can often result from childhood trauma or other external factors and, as shown above, contributes significantly to violence and related criminality. Imprisonment has been shown to have limited effectiveness in bringing about a reduction in violence and does not address the underlying causes such as alcohol consumption.

Whilst the application of an alcohol monitoring bracelet will not in itself deal with the fact that someone continues to use alcohol which effects their behaviour in a negative way, the bracelet does attempt to address aspects of the problem and limit the damage caused. The bracelet also produces a 'period of sobriety' during which the underlying reasons could be addressed as there would be more scope for introspection, particularly if the right support was present.

In supporting the introduction of CAM technology, the SVRU would add certain caveats. The technology should not be utilised as a punishment but as an intervention and should only be used on those with a demonstrable course of conduct indicating that alcohol is a key enabler of their behaviour. The technology should be viewed as an aid to the individual in addressing their problematic drinking and must be accompanied by the support of other services in order to ensure positive behavioural change. Indeed, medical involvement will certainly be required as there is always the risk of an extreme response from alcohol withdrawal.

We believe that the conditions must be set for a length of time that will enable change as a short time frame may be negotiated without any lasting impact on behaviour resulting. The scheme should not be voluntary, there would require to be some compulsion or consequence of a failure to adhere to the programme. Finally, we would highlight evidence from the USA which suggests that the use of CAM does not significantly reduce prison populations, its aim is to address the issue of alcohol.

I trust that this information will be of assistance to you and I look forward to expanding on these issues on 15 September.

Written submission from Police Scotland

1. Purpose

- 1.1 The purpose of this paper is to provide a written submission for the roundtable evidence session of the Criminal Justice Committee on youth offending, community justice, and alternatives to custody.

2. Background

- 2.1 Police Scotland welcomes the opportunity to provide this written response ahead of the roundtable evidence session. This will be supplemented by Superintendent Colin Convery and Niven Rennie, Director of the Violence Reduction Unit, attending the session in person.
- 2.2 The information provided stated the purpose of the roundtable is for the Criminal Justice Committee to hear from key stakeholders about a range of policy ideas to reduce youth offending, offer community justice solutions and provide alternatives to custody. Key issues for discussion were highlighted, with the understanding that stakeholders were not expected to cover all points. Evidence and comment on these key policy ideas have been replicated below.
- 2.3 Police Scotland is working to use a public health model to develop a preventions approach seeking to prioritise primary prevention: prevent the problem occurring in the first place but acknowledging that this is not always possible and so addressing secondary prevention; recognising the issue when it starts to emerge and seeking to resolve it and tertiary prevention - seeking to reduce the harmful consequences.
- 2.4 This is embedded in our Annual Police Plan 2021/22 to design services jointly to tackle complex public safety and wellbeing challenges; further enhance and invest in our approach to partnership, prevention and community wellbeing working constructively with our partners across the public, private and third sectors to support Scotland's public health approach.

3. Scottish Government policies in relation to tackling youth offending

3.1 Youth Offending

- 3.11 Police Scotland's main purpose is to improve the safety and well-being of people, places and communities in Scotland. Children and young people are an integral part of our communities and their needs must be represented in all aspects of policing.
- 3.12 We recognise that Children and Young People are a community with different needs, expectations and experiences of engaging with and seeking the assistance of Police Scotland. This includes children and young people from a wide range of backgrounds as well as with different strengths and vulnerabilities including poverty, substance abuse, mental ill-health all of which

are influenced by trauma during their early years, and that this does impact on the reasons why, and the outcome for children and young people offend.

- 3.13 Police Scotland acknowledges that offending by children is often a symptom of other challenges they are facing in their lives, and we support the Scottish Government's New Vision and Priorities for Youth Justice and work together with all other agencies who come into contact with children and young people who offend, putting a Whole System Approach (WSA) into practice, including Early and Effective Intervention
- 3.14 We acknowledge the priorities of Rights and Understanding, Victims, Whole System Approach, Data and Evidence and Support. In principle, the priorities are aligned to those of Police Scotland for children young people in conflict with the law and those who are victims and witnesses.
- 3.15 Police Scotland participate in the Governance structures, with monitoring and reporting arrangements to the Youth Justice Improvement Board and the Promise Oversight Board.
- 3.16 There is an acknowledgement in the Vision that progress has been made but with much still to do. This is no more apparent in the definition of a child and the complexity of the landscape for those under the age of 18. Police Scotland has contributed to the detailed work by the National Youth Justice Advisory Board on the implications for 16 and 17 year olds, with the ambition to consider them as children, in line with UNCRC.
- 3.17 Police Scotland is making steady progress to support the UNCRC (Implementation) (Scotland) Bill. Work continues during the delay from the UK Supreme Court action. Focus remains on developing a Child's Rights Impact Assessment to review policies and practices. Children in conflict with the law has been prioritised by reviewing policies for offending by children, custody, and complaints against the police.

3.2 Age of Criminal Responsibility (Scotland) Act 2019 (ACRA)

- 3.21 The Rights and Justice Legislative Programme (RJLP) has been set up to support the implementation of the Age of Criminal Responsibility (Scotland) Act 2019 (ACRA) as efficiently and safely as possible.
- 3.22 The RJLP Team is supporting the Scottish Government in its development of Statutory Guidance / multi-agency guidance and will be responsible for producing Police Scotland's internal guidance. It is developing the changes to be adopted in the recording / reporting of harmful behaviour incidents, changes to ICT and changes to the infrastructure of the police estate regarding provisions for Places of Safety.
- 3.23 Raising the age of criminal responsibility to 12 years is seen as the first legislative step to make Scotland compliant with UNCRC. The success of, and

the lessons learned from ACRA implementation provides notable progress towards UNCRC compliance. It also supports the required culture change, within Police Scotland, and beyond.

3.3 Care Experienced Children and Young People

- 3.31 We have listened to the views of care experienced young people, partners and academic research that provides children in residential care are over represented in the criminal justice system and have significantly higher incidents of going missing from home than their peers.
- 3.32 From September 2019 to February 2020, Police Scotland approved a test of change to reduce the criminalisation of children and young people in residential care. The pilot was initially tested in Dumfries & Galloway Division and was used as an opportunity to incorporate the extended adoption of the 'Not At Home' missing person protocol. The pilot changed the way in police would ordinarily deal with incidents involving children and young people in children's houses. Protocols were put in place to respond differently to behaviours that could be considered as low-level crime and to children missing/not at home.
- 3.33 Key findings were supportive of this approach:
- Young people, care staff and police officers highlighted the benefit and value of the SPOC (Single Point of Contact) role, resulting in a more effective partnership, with the young people being the focus
 - Recorded crime of minor nature within the care homes decreased by 62%, and missing persons enquiries reduced by 35%
- 3.34 The test of change has been continued in Greater Glasgow division to assess the approach in a higher volume area. This has been impacted by the pandemic response, but a full evaluation will be produced in late 2021 and further consideration of next steps. Progress and recommendations for further adoption is included in our Corporate Parenting Plan 2021-24. In the interim, the "Not at Home, Missing" protocol is being rolled out nationally and early indications provide that this is reducing a police response, and therefore criminalising behaviours in care experienced children and young people.

3.4 Trauma Informed Practice

- 3.41 Police Scotland recognises the effect of trauma on our children and young people and the evidence that 'trauma-informed' systems and practice can result in better outcomes by supporting the recovery of those affected and minimise the barriers to receiving care, support and interventions.
- 3.42 Police Scotland has developed strong working partnerships with the NHS NES team and contribute to the National Trauma Steering group and the Reference and Implementation Group, contributing to the Scottish Government's plan for a Trauma Informed Workforce.

3.43 Our Corporate Parenting Plan provides focus to upskill our staff with knowledge and understanding of the impact of trauma and to know how to adapt the way they work to make a positive difference to the lives of children and young people affected by trauma, and the links to offending behaviour by children and young people.

3.5 Participation and Engagement

3.51 The full realisation of children's rights requires proactivity and commitment on the part of Police Scotland and we recognise that we must start a cultural change to do better at engaging with children and young people to be considered a children's rights respecting service.

3.52 Police Scotland is working towards a Children and Young People Engagement and Participation Strategy to include young people in decision making. Progress is at an early stage and includes a Youth Ethics and Advisory Panel to discuss the proposal, a national Fearless survey online engagement with Youth Just Us.

3.53 Despite the pandemic related restrictions, Police Scotland continue to engage with young people in HMPYOI Polmont, delivering the Positive Lifestyles diversion programme, with SPS colleagues.

3.6 Gathering and Analysis of Data

3.61 Police Scotland recognises the need for, and benefit of, accurate and relevant information about our children and young people to identify issues and trends, to monitor our progress and to measure success. We recognise this is an area for improvement. The design for the National Unifi for crime recording will provide national and local data on offending by children, and the disposal/response pathways. The roll out has commenced and scheduled for completion by summer 2022. This would supplement other key information from our custody, missing people and Vulnerable Person Database.

4. The impact of the provisions of the Management of Offenders (Scotland) Act 2019

4.1 Expanding the use of electronic monitoring.

4.12 Police Scotland is represented on the Electronic Monitored Bail (EMB) Operational Implementation Group. We recognise the potential benefits this affords and are working with Scottish Government and partners towards implementation.

4.13 EMB provides an option to release an accused person on bail back into the community, with the added safeguard to electronically monitor them to enforce curfews. The EMB Operational Implementation Group continues to focus on the

operational implications of this legislation and Police Scotland remains committed to support the roll out by the end of 2021.

4.2 Alcohol monitoring and global positioning systems (GPS) technology.

4.21 Police Scotland understands that proposals to introduce the use of alcohol monitoring technology and global positioning systems (GPS) technology to improve monitoring capability, have been delayed pending further financial planning.

5. The Care Review- The Promise and Corporate Parenting

5.1 Police Scotland fully supports The Promise, and the drive for change demanded by the findings of the Independent Care Review. Police Scotland has developed a strong partnership with The Promise Scotland team and supports the shifts in policy, practice and culture so Scotland can “Keep The Promise” it made to care experienced infants, children, young people, adults and their families.

5.2 Police Scotland will work with partners to deliver the first Change Programme, setting out shorter term priorities. These include a review of legislation affecting children and young people and will have synergy with the Scottish Government’s New Vision and Priorities for Youth Justice and UNCRC commitments.

5.3 In 2021, Police Scotland reviewed and then renewed the Corporate Parenting Plan. As Corporate Parents our vision is, “To contribute to a care system which prioritises a child’s need for a happy childhood and results in positive experiences and outcomes”. We have set out our priorities under key themes; language and stigma, building better relationships, supporting children in conflict with the law, providing employment and development opportunities and continuing to engage, evaluate and learn throughout the lifetime of this Plan. These priorities will be supported by our Action Plan, and will be reviewed and refreshed annually.

6. Scottish-based solutions to tackle violence and crime

6.1 The Scottish Violence Reduction Unit (SVRU) is a key part of Partnerships, Prevention & Community Wellbeing Division (PPCW). Niven Rennie, Director, will attend the roundtable session and will provide more information on some of the work undertaken by the SVRU.

Written submission from The Promise Scotland

On 5 February 2020, the [Independent Care Review](#) published its conclusion. They were [accepted in full, across Parliament](#) and as such [a promise](#) was made to Scotland's infants, children, young people, adults and families. By 2030 it must be kept. This needs immediate and urgent work, and also broad and deep work that engenders long lasting change. The scale of change, its complexity and the multiple barriers that could thwart change, must not slow progress.

[The promise](#) has continued with cross-party support and engaged political leadership, national buy-in to a shared vision of Scotland, with a sector committed to change. This presents a set of circumstances never seen before.

Transformation of the scale required needs collective, collaborative and persistent work to make the promise a reality. [The Promise Oversight Board](#) will track the pace and quality of change and report publicly on Scotland's progress. It is the primary mechanism for holding all of Scotland's organisations and sectors to account. Ashley Cameron, Co-Chair of the Justice and Care Workgroup of the Independent Care Review and Member of the Oversight Board, is delighted to have the opportunity to discuss with you the key actions that must be completed in each priority area of change in 2021/22 and how the Committee's consideration can help Scotland to #KeepThePromise.

Independent Care Review Resources

The Independent Care Review [website](#) remains in place and holds all the reports. The [Evidence Framework](#) provides a detailed outline of all the participation and engagement that was undertaken, alongside a full summary of research commissioned and a bibliography of sources consulted.

The Committee's attention is particularly directed towards the ['What the Care Review Heard'](#) section of the Evidence Framework that outlines the participation and engagement work. There is much included that the Committee will find helpful, not least the [Justice and Care](#) section. Those with experience of the care and justice systems shared many experiences with the Care Review. They included, but were not limited to:

- The need for early and timely support for young people exhibiting concerning behaviours to prevent escalation into offending. Many people stated that support should address underlying issues, such as problematic drug and alcohol use, trauma, and poverty, and should be extended to the whole family.
- Many people, particularly members of the workforce, spoke of the inflexibility of the justice system, with reference to the system not being child centred enough and failing to provide tailored support for young people with specific needs.
- Young people also stated that the court system, especially Sheriffs, should be better informed and conscious of the context of someone's offending behaviour. Many felt there was a need to train and educate justice professionals on care experience, taking an approach that de-stigmatises

care, but also recognises that many young people enter the justice system having experienced significant trauma.

- Young people also stated that they felt stigmatised due to their experience of care, particularly by police. Young people shared multiple stories of police using force and aggression. These experiences served to exacerbate trauma and feelings of fear, and to young people developing mistrust towards the police.
- Many young people stated that they did not feel listened to or heard within the justice system, instead they felt excluded, and this contributed to feelings of being stigmatised and treated unfairly.

The Plan & The Change Programme

[Plan 21-24](#) was published in March 2021 and is the first of three overarching plans. It outlines five priority areas of change:

- A Good Childhood
- Whole Family Support
- Supporting the Workforce
- Planning
- Building Capacity

Each priority area has concrete actions that must be completed by 2024 for Scotland to stay on track to #KeepThePromise it made to its children and families in full by 2030.

The promise identified which organisations have the greatest influence on whether the promise is kept and / or lead responsibility for ensuring children and families get what they need. [Change Programme ONE](#) outlines their actions in 2021/22 – who is doing what, where there are gaps and where connections are to be made.

It is for those with responsibility to recognise and take ownership for their work of change. The Promise Scotland has a dual role in supporting this work and scrutinising it. In some areas, for example the Children's Hearings System, it will lead and convene other organisations to achieve change.

The Change Programme will be used by the Oversight Board to track the pace of change and to inform its reports. Whilst there is a great deal of welcome, ambitious activity, much is not presently sufficient.

The action areas below highlight specific areas within Change Programme ONE that will be of interest to the Committee.

A Good Childhood

- **Support:** COSLA and The Scottish Government have taken lead responsibility for this outcome through the [Mental Health and Wellbeing Joint Delivery Board](#). Monitoring of this action will be focused on movement across the shift in access

to service, ensuring that care experienced children and young people are a priority of Local Authorities and Health Boards in the planning and provision of the range of universal and intensive services.

- **Youth Justice:** Young people with care experience are disproportionately represented within the justice system, as such there is a need to ensure that offending behaviour of children is dealt with through the Children's Hearings System. Children must have their rights upheld and must be dealt with in a way that is appropriate, proportionate, recognises their age and is trauma informed and responsive. There are very specific things that must happen by 2024 to ensure that Scotland stays on track. They are:
 - The disproportionate criminalisation of care experienced children and young people will end.
 - 16- and 17-year-olds will no longer be placed in Young Offenders Institutes for sentence or on remand.
 - There will be sufficient community-based alternatives so that detention is a last resort.
 - Children who do need to have their liberty restricted will be cared for in small, secure, safe, trauma-informed environments that uphold their rights.
- **Advocacy:** Funding for the implementation of s.122 of Children's Hearings Scotland Act 2011 has been extended for 2021-22, when implementation of the duty will be reviewed. The Scottish Government Access to Justice team is seeking to develop legislation to provide opportunities for targeted services from legal aid providers.
- **Moving On:** There is a need for a national strategy to implement legislative requirements and work to break down barriers to implementation as it is clear that the welcome statutory duties are not being universally applied.
- **Physical Intervention:** The Scottish Government is reviewing the legal framework in relation to restraint and seclusion, considering UNCRC incorporation. The Physical Intervention Working Group will publish its work to develop rights upholding guidance in autumn 2021.

Supporting the Workforce

- **Workforce Values:** The Scottish Government has committed to workforce planning around services and support for children, young people and families. The SSSC is reviewing its codes of practice to provide a framework that upholds rights and a relationships-based approach.
- **Trauma Informed:** The Scottish Government has committed to a timeline for trauma training for social workers and for higher education providers to revise social work qualifying programmes.
- **Workforce Support:** As with Workforce Values, The Scottish Government has committed to leading workforce planning.

Planning

- **Planning:** There is a critical need to prioritise planning for siblings, secure care and youth justice to ensure policy and legislative commitments are enacted.

- **Information Sharing:** The Scottish Government has committed to a refresh of GIRFEC. The Scottish Government and COSLA have lead responsibility to overcome barriers to information sharing.

Building Capacity

- **Legislation:** To fully implement the UNCRC and [the promise](#) there must be action to amend existing legislation. There are clear commitments to review the legislative underpinning of the Children’s Hearings System. The Scottish Government has set up a UNCRC Strategic Implementation Board which could be a useful space to consider legislative compliance.
- **Children’s Hearings System:** A working group has been set up and Sheriff David Mackie has been appointed as the Independent Chair. The group will produce collaborative proposals on legislative change, ready for the legislative process in 2024.
- **Policy Coherence:** The focus will be on alignment and implementation, not inquiries and reviews. Of the 43 directorates of The Scottish Government, 26 have an interest in the implementation of the promise, a structure which straddles 49 of 117 policy areas. There are five Cabinet Secretaries and nine Ministers with responsibility to #KeepThePromise. The Promise Scotland has and will continue to engage with Scottish Government on an enabling policy environment.
- **Governance Structures:** There is a need for long term accountability that utilises existing structures effectively to ensure the Oversight Board and The Promise Scotland will be obsolete by 2030. There is a need to ensure that all sponsor teams in Scottish Government are fully sighted on the work to #KeepThePromise to ensure public bodies have the work well embedded in frameworks and appointments.

Work to date

The Promise Scotland conducted extensive engagement throughout May and June 2021 to work with those with statutory responsibility to understand the work they were doing to support Plan 21-24. The information received informed the development of Change Programme ONE. Below are highlights from that engagement work that may be of interest to the Committee.

Local Authorities

Local authorities stated that their ongoing and upcoming areas of focus include:

- 16–17-year-olds in custody (both care experienced, and non-care experienced).
- Reviewing support for Young People in conflict with the law.
- Planning for the development of a holistic approach within the justice system.
- Monitoring of pilot programme outcomes which address youth justice in new ways, such as deferred sentencing.

- Aligning all teams around the whole family to provide joined up support packages.