

# **Criminal Justice Committee**

## **Automatic early release of prisoners and prosecution policy on public safety and prison population**

### **Written submission by Police Scotland**

#### **The Cabinet Secretary for Justice and Home Affairs**

##### a) Home Detention Curfew (HDC)

Police Scotland see merit in the use of this approach and attendant technology when considered by the Scottish Prison Service to be appropriate. Police Scotland would envisage however only addressing any subsequent revocation of licence rather than having any role in the monitoring of compliance with HDC. GPS Technology would provide additional safeguards and improve the timeliness of decision making.

##### b) Electronic Monitoring

Police Scotland appreciate that this is a viable alternative to remand, however we have advised previously that demand cannot simply be shifted onto policing to monitor and manage more risk within local communities. Unlike the Scottish Courts and Tribunal Service (SCTS) and Community Justice Scotland (CJS), we did not receive any additional funding, and we would encourage transparency with regards to improved outcomes as a consequence of this investment.

Police Scotland agree with the Cabinet Secretary that partners must collaborate to ensure that the system works effectively and to ensure that decisions, particularly with regards to funding and resourcing do not simply transfer the problem elsewhere or indeed exacerbate it.

##### c) Long Term prisoners

It is accepted that people are now serving longer in prison for more serious and complex offending. It is the case however that this should present greater opportunities for rehabilitation and a slower lead in period to ensure that the supporting infrastructure is in place upon release. Police Scotland go to extensive effort to ensure that perpetrators are successfully convicted for the crimes that they commit and from a public confidence perspective, it is important that sentencing is commensurate with the level of harm caused and to reduce the chances of recidivism.

##### d) Short Term prisoners

Accepting the Lord Advocates statement referencing the remand population, the effectiveness of short-term sentences, which are then further reduced (to 40% time served) leads to the utility of them in the first place being questioned when the opportunity for rehabilitation is probably greatly reduced. This does however have to be balanced with the need for the public to see punishment issued to those who

cause harm, understanding that all crime can affect the safety and security of local communities and individuals differently.

Without effective rehabilitation and the social infrastructure necessary to support prisoners upon release, repeat recidivism may occur with crime increasing consequently.

### **Lord Advocates Statement – Prosecution Guidance on Public Safety and Prison Population**

Police Scotland supports the Lord Advocates position with regards to Violence Against Women and Girls and the exclusion of domestic abuse and sexual offences from the temporary measures outlined.

Whilst the Lord Advocate cannot predict what effect the temporary arrangements will have, the focus being applied will, in all likelihood reduce the 27% of the prison population currently on remand.

It is entirely accepted that initial bail decisions reflect a moment in time and can be better informed when social work reports have been completed. Police Scotland would however suggest that there will always be a need to consider short term remand which will be case dependent and understanding that harm can be experienced differently in different parts of Scotland. Conducting a risk-based review would be a proportionate approach, which includes tailored bail conditions to mitigate outstanding risks.

Police Scotland have demonstrated a commitment to embedding the revised Lord Advocates Guidance relating to Direct Measures and improving the quality of information provided in the Standard Prosecution Report so that decision making by COPFS is more fully informed.

Police Scotland have experienced the benefits of Summary Case Management and support national roll out. We also support the expansion of summary case management principles which lead to earlier disclosure of specified evidence leading to earlier guilty pleas and earlier resolution of cases. Victims groups have however expressed some concerns that penalties may be more lenient taking cognisance of the early guilty plea but they will be reassured that this does not include domestic abuse and sexual offences.

Police Scotland would fully support the mainstreaming of part heard trials and trials in absence, as this would reduce the journey time for victims, witnesses and also offenders. The current approach places a considerable burden on individual agencies but the impact on victims of appearing on multiple occasions at Court cannot be underestimated.

Police Scotland have formally raised the volume of warrants through the Criminal Justice Board, in particular failure to appear warrants, which accounts for approximately 75% of all warrants issued. Police Scotland have suggested that further research is required to understand why these levels are so high and this is currently being progressed by Community Justice Scotland. Whilst Police Scotland

will execute the warrant and must bring the detained person to the next available Court, this does not necessarily lead to remand.

In terms of offending and repeat offending, Police Scotland would advise that what constitutes 'a substantial risk of causing harm to the public or to victims and witnesses, and where that risk cannot be mitigated by bail conditions' needs to be defined. Acquisitive crime is on the increase and whilst it may not meet the threshold of substantial harm, the repeat nature may not be mitigated through bail conditions. Police Scotland would ask that each case continues to be taken on its own merit by the Court.

It should however be noted that all of the measures referenced above, whilst intended to reduce the pressure on the prison population do transfer the risk to local communities and this needs to be carefully managed and resourced. It is also probable that in the absence of any additional support to persons directly impacted, the number of breaches of bail etc are likely to increase and this cyclical nature of offending needs to be understood and accommodated in planning.