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Criminal Justice in Crisis:
What must be done now?
What should be done in the medium term?
What could be done over the long term?



Background

On 18 June 2024, experts from academia, policy and practice met at the Royal Society of Edinburgh to deliberate on four sets of issues that are of critical importance across the UK: understanding and preventing knife crime and anti-social behaviour; racism in policing and impacts on practice; the injustices linked to the processing of gender-based violence in the criminal justice system; and prison overcrowding and the impact on prisoners' rights.

This briefing document highlights the principal recommendations of the conference and offers ways of tackling the current crises in criminal justice. The recommendations are based on robust research, policy, and practice evidence and the expertise of senior practitioners.

Overarching themes

Break the cycle: The issues covered in this conference have been consistently highlighted as areas of concern for at least 40 years. It is time to make meaningful change.

Do things differently: Work systematically across the criminal justice system in terms of case management, data capture and sharing, and increasing capacity to track cases. And join up government portfolios – tackling crime and delivering justice require input from a range of departments, including education, children and families, economy, housing, equalities, health and more.

Invest in people: People, rather than systems, are critical to effecting crime reduction. Nurture, pay well and value the workforce both within criminal justice (e.g. probation officers, social workers, youth workers, police, prison officers etc.) and the wider institutions that help to create safe and inclusive communities (e.g. teachers, nurses, physical and mental health professionals, GPs, housing associations etc.).

Change attitudes: Improve public understanding of the drivers of crime and what is most effective in delivering justice, through better communication, interaction with the news media, and conveying robust evidence in simple, clear and accessible messaging.

Maximise data use: Better data sharing and use within and between public sector organisations can expand understanding, increase productivity, enhance decision-making, improve organisational collaboration, save time and, ultimately, save lives.

Understanding and preventing knife crime and anti-social behaviour

The problems to be solved:

Knife crime is rising and is linked to: increases in criminal exploitation of children and young people; ready availability of weapons including zombie knives; youth cultures which valorise knife carrying as a key element of status and identity in the context of poverty and lack of opportunity; feelings of fear of victimisation amongst young people and knife-carrying for protection; and early experience of trauma and neglect.

The term 'anti-social behaviour' is problematic because it is defined as any behaviour which causes alarm or distress in those witnessing it, rather being specific about the type of behaviour. Over the past decade there has been an increase in reports of disruptive behaviour in schools and communities. Anti-social behaviour can be committed by older people. Where such behaviour is committed by young people it is linked to poverty, lack of investment in youth services, truancy and school exclusion, early trauma and neglect. It shares a common set of causes in early childhood with those most at risk of involvement in more serious forms of violence and knife crime in the teenage years.

What must be done?

- Take a long-term approach - preventative approaches take time to bed-in and outcomes will not be fully realised for many years beyond the normal political cycle.
- Listen to children and young people in designing and implementing policy and adopt co-production principles.
- Invest in safe spaces for children and young people in communities.
- Invest in education and ensure inclusion in full-time education.
- Provide more early years support and family support.
- Invest in adolescent mental health services.
- Embed trauma informed practice across youth justice and build institutional cultures based on compassion and empathy.
- Tackle ready availability of knives particularly zombie knives for purchase online.
- Tackle criminal exploitation of children and young people.
- Treat children as victims not offenders (embracing a child first approach).
- Take immediate and meaningful steps to address child poverty (food, clothing, housing).

What should be done?

- Ensure that violence reduction approaches take into account violence perpetrated upon and amongst young people as well as self-harming behaviours.
- Understand that simply transplanting what works in one jurisdiction or location is not a guarantee of success - context matters.
- Ensure the term 'public health approach' does not become a catch-all phrase.

What could be done?

- Other UK jurisdictions could learn from Scotland in terms of a rights-based approach now enshrined in statute, raising the age of criminal responsibility, and the major success in reducing convictions and use of custody for older teenagers over the past decade driven by early and effective intervention strategies and diversion (a whole system approach).

Racism in policing and impacts on practice

The problems to be solved:

The concept of 'institutional racism' has become one of the most highly debated and divisive topics across the UK, often to the detriment of addressing the underlying problems it identifies. Within policing, concerns about discriminatory and racist behaviour towards people from minority ethnic groups have existed for decades, and multiple inquiries have concluded that institutional racism is an endemic and engrained problem. Despite improvements in recruitment rates, community engagement and the development of a Police Race Action Plan, people from black and minority ethnic backgrounds continue to be significantly under-represented amongst police officers and over-represented within the justice system (from police stop and search to the prison population). There continues to be debate and disagreement about whether and, if so, how institutional racism manifests within policing. Efforts to minimize the problem by claiming 'it's just a few bad apples', 'it's something that happens elsewhere', or 'we don't have black people here' serve to exacerbate and perpetuate the issue. Ultimately, institutional racism overlaps with many other types of discrimination – interpersonal, structural, institutional and systemic – which makes it difficult to resolve on its own.

What must be done?

- Police leaders must agree a common language around what institutional racism is, accept the problem exists and take appropriate steps to address it.
- Police forces must represent the communities they serve, so more recruitment of people from ethnic minority groups, better retention rates, and support for promotion to senior level positions is essential.
- Officer training must be continuous and focus on issues of equality, diversity and inclusion and address problems of conscious and unconscious bias, from new recruits to senior officers.
- Police scrutiny bodies must intensify their focus on racist cultures, practices and processes and take action to increase organisational and individual accountability.
- The views of people from minority ethnic groups – especially those who are subject to over-policing – must be consulted, listened to, and used to shape policy change.

What should be done?

- Use the regulatory functions of both the General Equality Duty and the Scotland Specific Duties to establish a stronger statutory framework that requires improvements in officer and work-force representation.
- Cultural practices that disproportionately target black and other minority ethnic groups should be identified, addressed and consigned to history.
- Negative language around institutional racism should be shifted to reflect a more positive focus on an anti-racism agenda.
- The focus of policing organisations accused of racism should shift away from individual acts or actions towards institutional outcomes and perceptions.

What could be done?

- Dialogue and community engagement between the public and the police could be prioritised in order to build public trust, confidence and a sense of justice.
- There could be better ethnic diversity amongst representatives of policing boards, committees and advisory groups to ensure anti-racism is core to all decision-making.

The processing of gender-based violence in the criminal justice system

The problems to be solved:

There are long-standing concerns about the processing of gender-based violence, such as: poor communication about the progress of cases, uncertainties about trial dates and last-minute changes to court locations. In addition, harm is caused by 'secondary victimisation' or re-traumatisation whereby the investigation, prosecution and adjudication processes exacerbate the trauma of the violence through, for example, the victim-survivor reliving the experience, encountering disbelief, intrusive questioning, having to face the abuser in court, and enduring a distressing cross-examination process. Stereotypes, bias and gender prejudices continue to influence perceptions of, and responses to, victim-survivors who report feeling 'marginalised' throughout the criminal justice process. A high backlog of cases is leading to significant delays in the processing of cases, which further impact on the mental health and wellbeing of victim-survivors - who feel they are 'living in limbo'. Despite a raft of criminal justice reforms, there continue to be high attrition rates, low conviction rates and little decrease in the overall incidence of gender-based violence.

What must be done?

- Improve communication with victim-survivors concerning the justice process, and the progress and outcomes of cases, including sentencing options.
- Embed a rights-based framework into justice processes which recognises, upholds and protects victim-survivors' rights to be treated fairly, with dignity and respect.
- Take a coordinated and integrated approach to ensure the safety of victim-survivors before, during and after the criminal justice process.
- Take account of the views of victim-survivors in designing and implementing policy and practice and ground accounts in the broader research context.
- Address the unacceptable backlog of sexual violence cases - the proposed specialist courts in Scotland may help here.
- Effect these changes right across the criminal justice system rather than piecemeal.

What should be done?

- Recognise the significant harm of gender-based violence.
- Work to rebalance the criminal justice system so as to better meet the needs of victim-survivors in order to decrease feelings of marginalisation and disempowerment, whilst also upholding the rights of the accused.
- Do more research on perpetrators so as to counteract 'blind spots' and problems in attempts to address gender-based violence.
- Collect clear and robust data on all aspects of the criminal justice process which could inform case management, improve service delivery and increase accountability.

What could be done?

- Work in partnership with academics and support services to ensure safety of victim-survivors and enhance the overall response to gender-based violence.
- Encourage open and constructive debate about how 'justice' might be achieved in cases of gender-based violence, acknowledge the entrenched harms caused by the system and consider of other forms of (procedural/transformational) justice.

Prison overcrowding and the impact on prisoners' human rights

The problems to be solved:

Prisons in Scotland operate in crisis and feature often in daily news items, on social media, in national reports and in international briefings, concerned with human rights and meeting minimum standards. Persistent pronouncements on overcrowding, suicide and self-harm, poor conditions, health, and well-being, and the continued locking up of very vulnerable people, are just some of the ways that this crisis is showing up. Not only is the crisis escalating - but it also appears seemingly impossible to fix. Prisons create more problems for staff also, who work in a sector over stretched and under-resourced. The current state of prisons in Scotland is linked to recidivism too because people's needs are very rarely met within the prison environment, and when released, people, more often than not, return to the vulnerable and poor communities that they came from. Prison, therefore, is acutely harmful to society and all people impacted by imprisonment – including some victims.

What must be done?

- Reduce numbers – Scotland's prisons are at full capacity and some prisons are overcrowded. This must end to create some 'breathing space' to establish sensible, compassionate sentencing approaches.
- Create a collected, collective, and connected vision, that on all points of the justice spectrum, centres the person facing imprisonment and demands, in most cases, that sentencers pause to reflect on the value of jail time.

What should be done?

- Move the policy halo from criminal justice to social policy wherein different policy responses, less harmful, could be enacted to tackle the socio and economic factors that lead to crime.
- Address suicide and other types of deaths in custody. This is a serious public health problem that demands our attention. Victimization, despair, helplessness, and hopelessness are common to many, if not most prisoners, especially those on remand. Even for healthy prisoners, being imprisoned is stressful. State of the art research indicates that prevention of suicide can be feasible, but only if it involves well designed health-facing intervention services. It cannot be overlooked that current sentencing and punishment levels may influence suicide rates. If we believe that all lives are equal, and that human rights exist, we must prioritise this issue.
- Use imprisonment with restraint. Political leaders and legal and policy officials must, therefore, ask, and act, in the best interests of prisoners, very many of whom are high suicide risk prior to custody. The question politicians should ask is: can we really claim to be a civilised society when we send our most vulnerable to prison?

What could be done?

- Implement a national human rights strategy embedded in a social policy approach committed to citizenship and justice. A human rights approach to imprisonment has the potential to alter how policy makers and justice officials address the policy and legal implications in prison environments where conditions are poor.

About the conference

The conference was organised by Professors Michele Burman, Lesley McAra, Susan McVie and Laura Piacentini – all Fellows of the Royal Society of Edinburgh. The audience included researchers, policy-makers, practitioners, senior school students, and interested members of the wider public. Sessions were also live-streamed through YouTube.

Conference Chair:

- Sheriff David Mackie

Plenary speakers:

- Professor Michele Burman, University of Glasgow
- Professor Lesley McAra, University of Edinburgh
- Professor Susan McVie, University of Edinburgh
- Professor Laura Piacentini, University of Strathclyde

Panel 1: Understand and preventing knife crime and anti-social behaviour

- Professor Bruce Adamson, University of Glasgow (Chair)
- Fiona Steele, Action for Children
- Dr Karla Goodman, London Innovation and Improvement Alliance
- Professor Alistair Fraser, University of Glasgow

Panel 2: Racism in policing and impacts on practice

- Ephraim Borowski, Chair of the Police Scotland's National Independent Strategic Advisory Group (Chair)
- Chief Supt. Mark Hargreaves, His Majesty's Inspectorate of Constabulary Scotland
- Professor Nasar Meer, University of Glasgow
- Dr Anna Souhami, University of Edinburgh

Panel 3: The processing of gender-based violence in the criminal justice system

- Mariam Ahmed, Chief Executive, Amina (Chair)
- Sandy Brindley, Chief Executive, Rape Crisis Scotland
- Dr Oona Brooks-Hay, University of Glasgow
- Professor Katrin Hohl, City, University of London

Panel 4: Prison overcrowding and impact on prisoners' human rights

- Dr Katrina Morrison, Edinburgh Napier University (Chair)
- Dr Cara Jardine, University of Strathclyde
- Dr Marguerite Schinkel, University of Glasgow
- Dr Jason Warr, University of Nottingham

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This briefing paper was produced by Professors Michele Burman, Lesley McAra, Susan McVie and Laura Piacentini with assistance from University of Glasgow PhD students Emily Qvist-Baudry and Stephanie Love. Any responses to the briefing paper should be directed to the four conference organisers, whose details are provided below.

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