THE UNIVERSITY *of* EDINBURGH
Edinburgh Law School

Scottish Prison Service policy briefing: Understanding pathways into and out of prison

Professor Lesley McAra and Professor Susan McVie, University of Edinburgh

Introduction

This briefing document highlights key findings from the Edinburgh Study of Youth Transitions and Crime as they relate to pathways into and out of imprisonment and sets out the main policy implications which flow from them.

Background context

Rates of imprisonment in Scotland have been rising steadily for the last three decades (see Figure 1) and prison overcrowding is now at a critical point, drawing criticism about human rights breaches.[i] At the time of writing, emergency measures are being put in place to enable the early release of some people in custody to ease the current crisis.

Contributing to the rising numbers of people in custody are major increases in the remand population (a rise of 24% over the past decade) and increases in the average daily population of those serving long term sentences (with an 18% rise in the average daily population of those serving sentences of four years over the same period).[ii]

Prison surveys and other administrative data highlight a prison population with a concentration of complex needs and a history of childhood trauma and disadvantage. Data also show that a disproportionately high number of people in custody have specific learning needs, a history of school exclusion and few or no educational qualifications.[iii]

Research evidence has consistently demonstrated that successful transitions from prison back into the community, as well as pathways out of offending, are supported by having a job or being in education or training.[iv]


Figure 1: Average Daily Population in Scottish Prisons
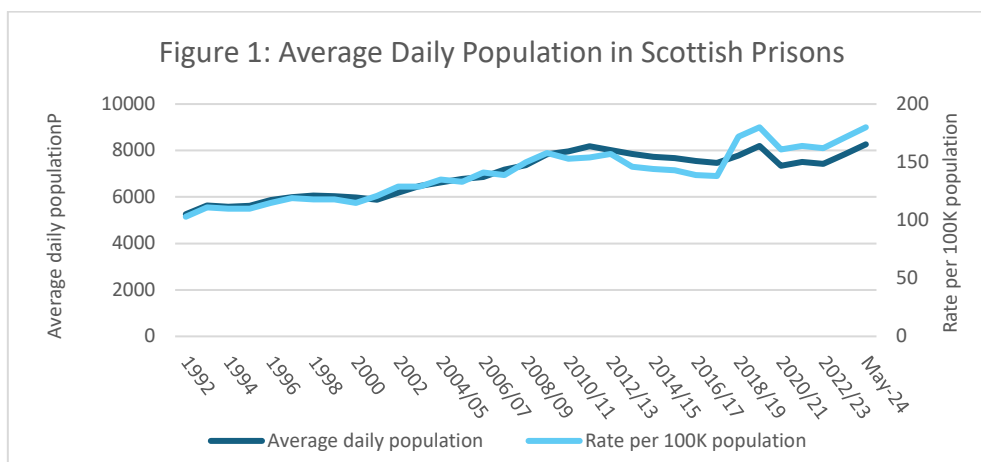
Notes: Rate from 2022/23 onwards calculated using latest published figures from National Records of Scotland on projected national population https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-projections/population-projections-scotland/2020-based/2020-based-unrevised

# Early history of prison experienced cohort members

Just over a quarter (26%) of the Edinburgh Study cohort had a criminal conviction by age 34, of whom only 6% (n=61) had ever been sentenced to a period of custody.

Early history of offending: Cohort members who had prison experience by age 34 were significantly more likely to have been involved in serious offending in early childhood (by age 12), including involvement in high levels of violence (based on volume), compared to those with a conviction who were not imprisoned and those with no convictions (Figure 2).

Figure 2: Early involvement in serious offending including violence
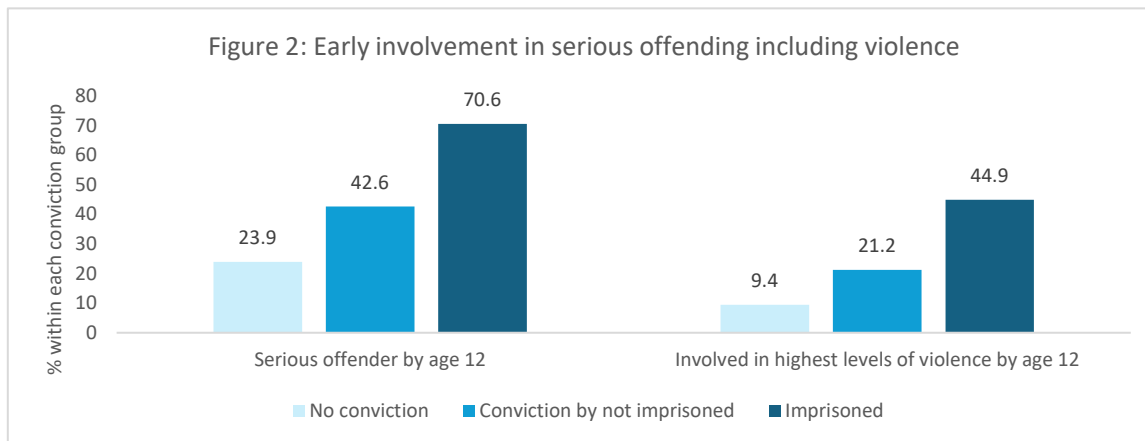
Notes: Serious offending - robbery; weapon carrying; 6+ incidents of assault; housebreaking; joyriding; car breaking; and fire raising; Highest level of violence - based on dichotomous measure 1= more than one standard deviation beyond the mean of scale of total number of times involved in assault, weapon carrying and robbery in the direction of concern 0=rest.

History of neglect, abuse, family crisis and poverty: Cohort members who ended up in prison were significantly more likely than others to have come to the attention of agencies due to abuse and neglect in early childhood, and to come from a family context characterised by a high level of family crises (including serious illness or bereavement in the immediate family, divorce or separation) and poverty (as measured by socio-economic status, free school meal entitlement and neighbourhood deprivation) (Figure 3).

Figure 3: Neglect, abuse, family crisis and poverty
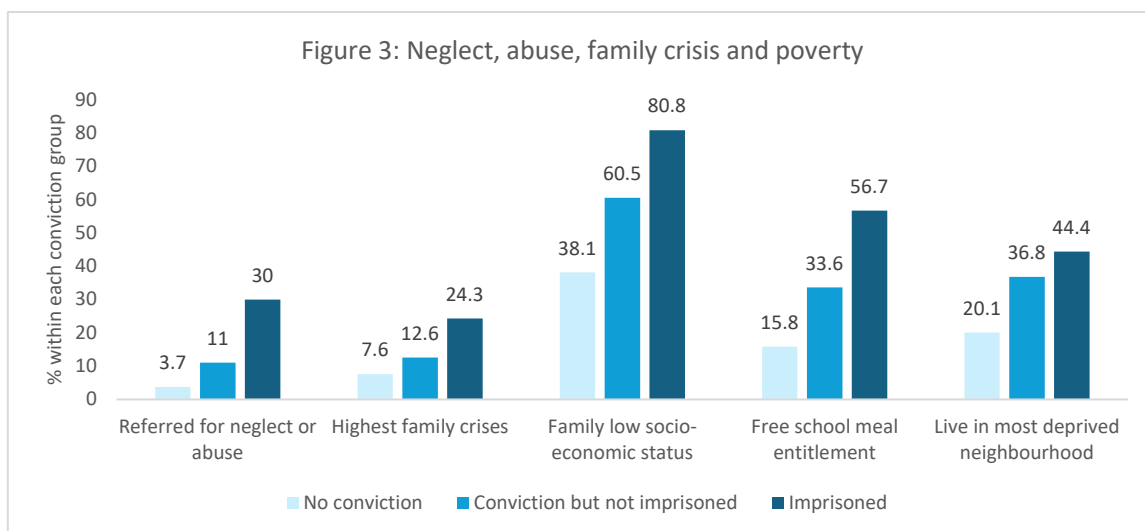
Notes: Referred to children's hearing system by age 13 for neglect or abuse ; highest family crises reported by parents - based on dichotomous measure 1= more than one standard deviation beyond the mean of scale of total number of family crises – death of someone living in household or in immediate family, divorce or separation in household, serious illness or accident in household, household member sacked from job or made unemployed, severe financial difficulties experienced, 0=rest low socio economic status – parents in manual occupation or unemployed; free school entitlement data from school records; living in the top quartile of neighbourhood deprivation as measured by SIMD.

History of victimisation: Prison experienced cohort members were amongst the most victimised young people (based on volume), with elevated rates of exposure to crime (in general), bullying and adult harassment during adolescence (Figure 4).

Figure 4: Experience of victimisation
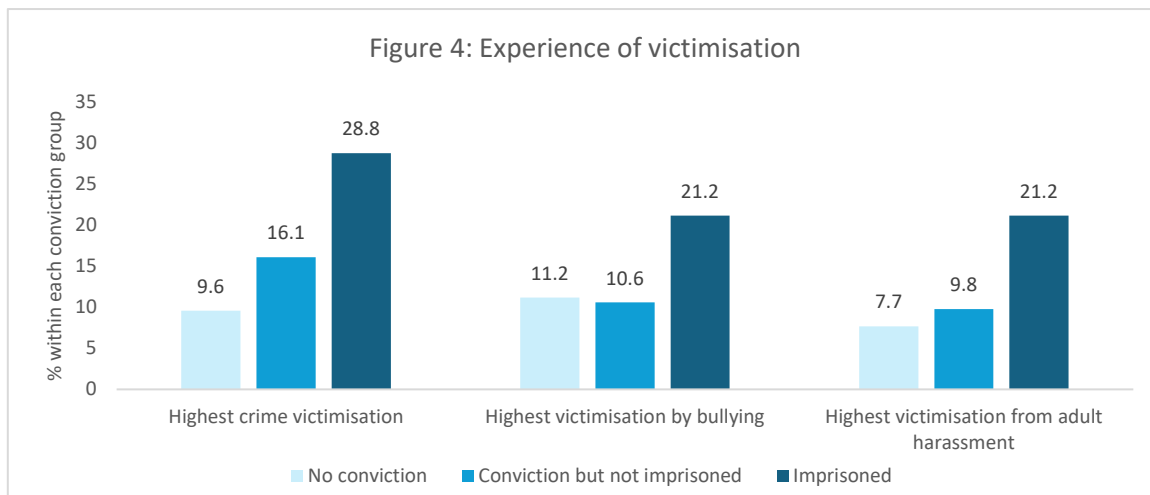
Notes: Based on dichotomous measures - 1= more than one standard deviation beyond the mean of scale in the direction of concern, 0=rest; crime victimisation scale total number of times at age 13 victim of – robbery, assault, weapon, threats, theft; being bullied scale total number of times bullied by others through being attacked, slagged off/called names, threatened you, ignored you or left you out; adult harassment scale total number of times at age 13 an adult stared at you so you felt uncomfortable, followed you on foot or in a car, got you to go somewhere with them, flashed you.

History of school experience: Cohort members with prison experience had the poorest school experience as measured by truancy and feelings of weak attachment to school and poor relationships with teachers. They also reported significantly higher levels of bad behaviour in school, and a correspondingly higher volume of punishments, than other groups (Figure 5).

Figure 5: Behaviour and attitudes towards school at age 13
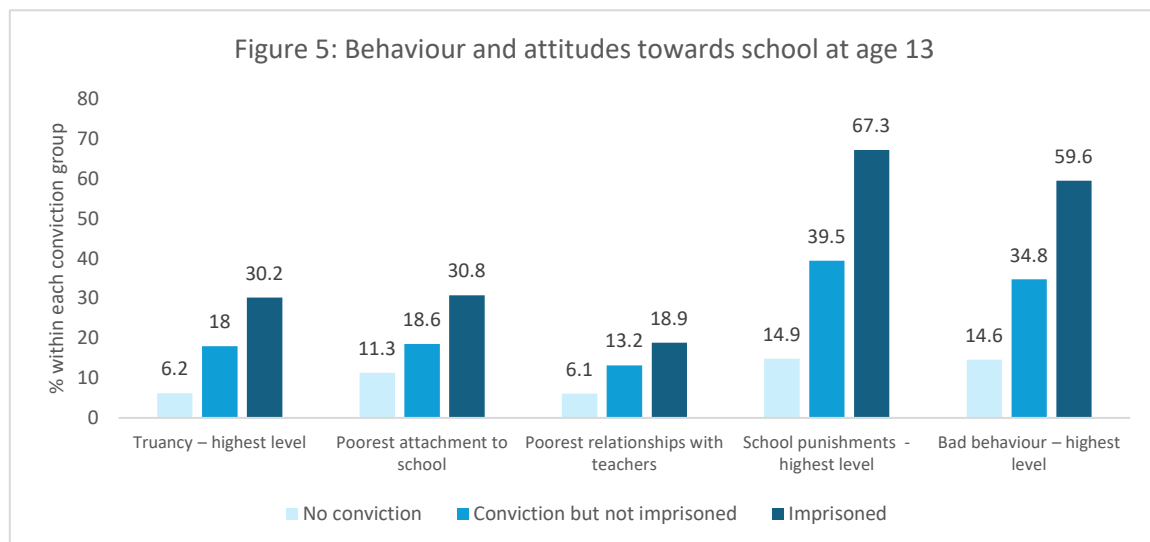
Notes Highest/Lowest based on dichotomous measure: 1= more than one standard deviation beyond the mean of in the direction of concern 0=rest
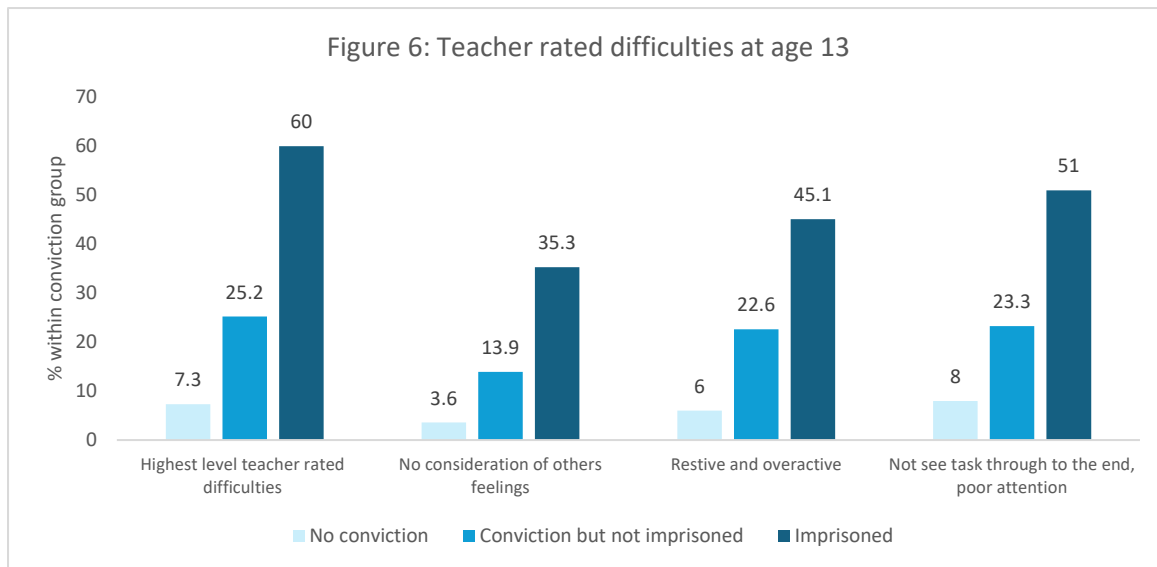Scale of attachment to school based on: how much agree/disagree with the following statements: school is a waste of time; school teaches me things will help me in later life; working hard at school is important; school will help me get a good job.
Scale of relationships with teachers - how many teachers in the past year: did you get on well with; helped you to learn; treated you fairly; you could ask for help if you had a problem with school work; you could ask for help about a personal problem; treated you like a troublemaker.
Scale of punishments - during the last year how often: did your parents have to sign a punishment exercise; the school got in touch with your parents by letter or telephone because of something you did wrong; you were given detention; sent to the head of department or head teacher; put on a conduct/behaviour sheet; given extra homework to do.
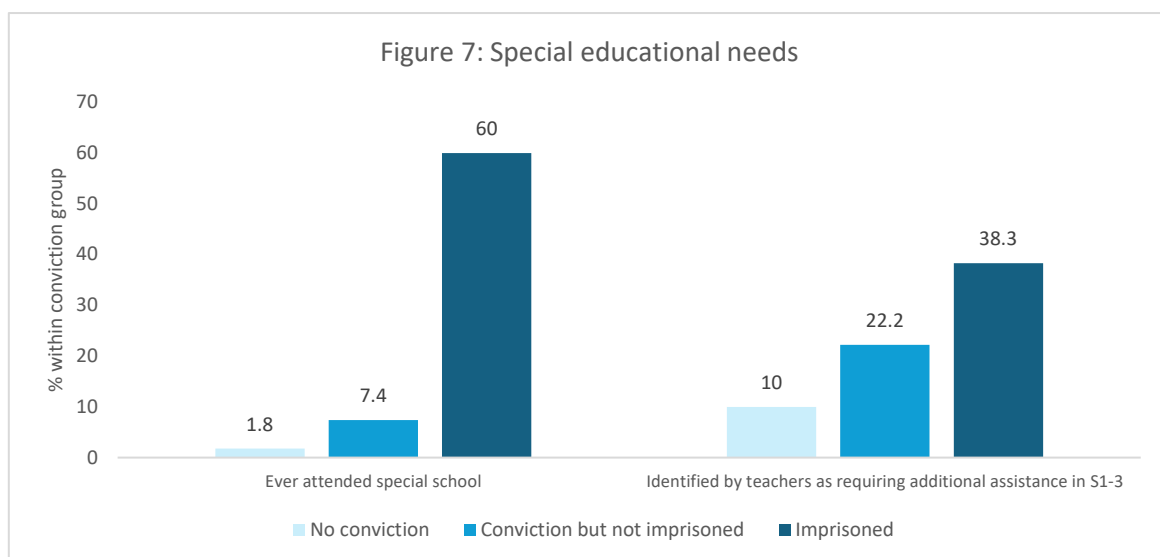Scale of bad behaviour - how often in the past year did you: arrive late for classes; fight in or outside the class; refuse to do homework or class-work; were cheeky to a teacher; used bad or offensive language; wandered around school during class time; threatened a teacher; hit or kicked a teacher.

Assessment of behavioural difficulties: Cohort members who were prison experienced by age 34 had been assessed by teachers as having significantly elevated rates of behavioural difficulties at age 13 in comparison with other groups. In particular, those with prison experience were significantly more likely than others to have been assessed at age 13 as lacking consideration for the feelings of others, of being restive and overactive, and having a poor attention span that prevented them from completing tasks (Figure 6).

Figure 6: Teacher rated difficulties at age 13

Category	No conviction	Conviction but not imprisoned	Imprisoned
Highest level teacher rated difficulties	7.3	25.2	60
No consideration of others feelings	3.6	13.9	35.3
Restive and overactive	6	22.6	45.1
Not see task through to the end, poor attention	8	23.3	51

y-axis: % within conviction group

Notes: Based on Goodman's Strengths and Difficulties scale, pupils assessed by pastoral care teachers at sweep 2 (age 13)

Assessment of learning difficulties: Prison experienced cohort members were significantly more likely to have attended a special educational school during secondary education, suggesting that they were in need of additional support for learning as a result of behavioural, emotional or learning difficulties. The prison experienced individuals were also more likely to have been identified by teachers as requiring additional assistance with reading and/or writing in the early years of secondary school (from age 12 to 14) (Figure 7).

Figure 7: Special educational needs

| Category	No conviction	Conviction but not imprisoned	Imprisoned
Ever attended special school	1.8	7.4	60
Identified by teachers as requiring additional assistance in S1-3	10	22.2	38.3

y-axis: % within conviction group

Notes: Attendance at special school based on school attendance at time of fieldwork. Data on identification of cohort members requiring additional assistance was provided by teachers in advance of fieldwork to enable research team to bring sufficient resources to support individual pupils.

School exclusion and early leaving age: Reinforcing what is already known about the population of people in custody, cohort members who were prison experienced by age 34 were significantly more likely than others to have been excluded from school. This was true throughout their secondary school education, from first year (age 12) to fourth year (age 15), with four out of five being excluded from school at any point during secondary education. By fourth year, the majority of those who were prison experienced had left school prior to the official school leaving age (age 16) (Figure 8).

Figure 8: Formal school exclusion and leaving school
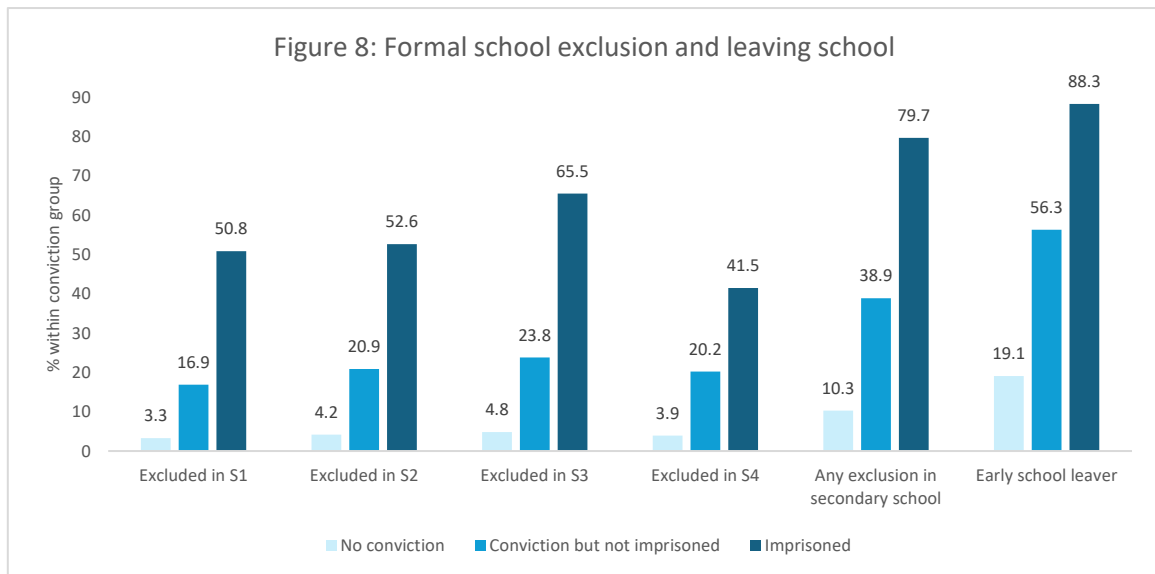
Notes: The measure of school exclusion is based on both individual self-reports and administrative data from school records held by City of Edinburgh Council.

Experience of formal agency contact: Cohort members who were prison experienced by age 34 were significantly more likely to be formally known to social and justice agencies during childhood and adolescence than other groups in the cohort. This included: having adversarial contact with the police by age 12; being referred on offence grounds to the children's hearing system by age 12; and having a history of care (looked after) experience (Figure 9).

Figure 9: Early contact with formal agencies
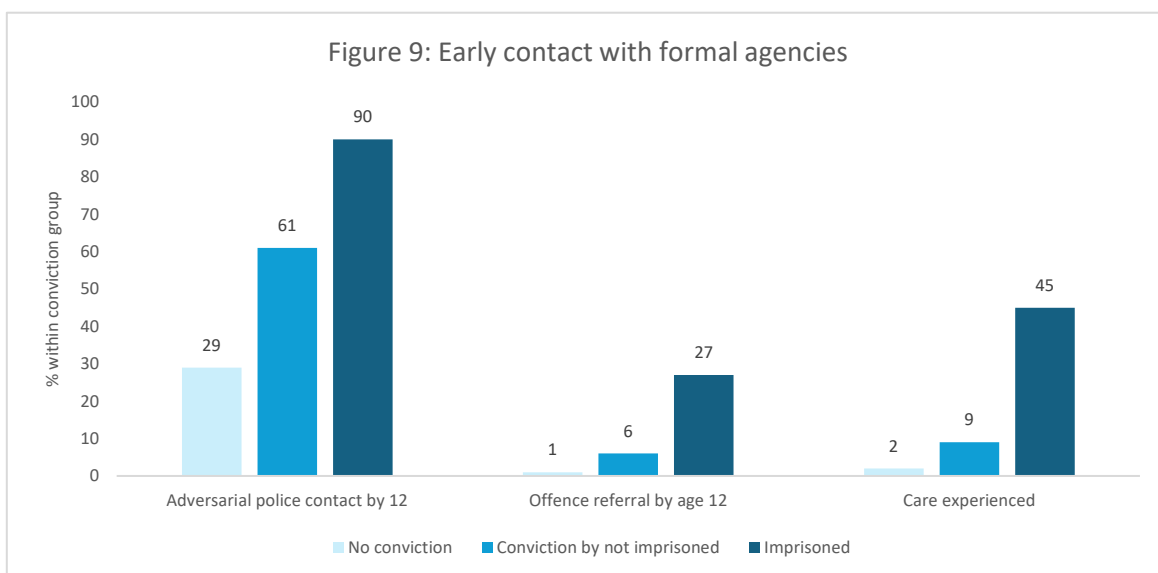
Notes: Adversarial police contact was based on self-reports from cohort members. Data on official referral to the Children's Hearings System and care experience were extracted from official records collected by the Scottish Children's Reporters

The lived experiences of people in custody

Evidence from the Edinburgh Study cohort drawn from both survey and interview data presents a rich picture of the lived experience of those who had been sentenced to imprisonment up to the age of 34. Some of the key themes are described below.

From fear to familiarity: Initial experiences of prison (especially amongst those who entered during the teenage years) reflected fear and apprehension about what would happen to them, how they would survive, and whether they could adapt to prison life. For those who experienced multiple spells in prison, however, fear was replaced by familiarity and networks of offenders within prison offered a ready-made peer group.

"I was less anxious as I discovered half my mates were there".

"As long as you stuck to the right people and just got on with it, ken what I mean... I was a bit scared and that, like, but I got through it."

Care as a form of incarceration: Those who had been placed in care during childhood drew parallels between being looked after in care and being held in prison. Prison life was viewed as an extension of the secure care system, with parallel rules and structures.

"Because I grew up in care at [CAREHOME] jail was just sort of normal"

Prison as a life-saver: Some felt the prison had acted as a life-saver, a space in which they could move away from difficult/violent relationships with family members or peers or recover from alcohol or drug dependency.

"It feels funny to say, but I woudnae be here if it wasn't for jail. It's definitely saved my life on more than a few occasions. Because it's taken me away frae the merry go round… "

A culture of violence: Some had experienced or witnessed extreme violence within the prison estate, but had become inured to these types of occurrence and took it in their stride. This was viewed as a form of institutionalisation.

"Institutionalised, definitely, know what I mean. Hardened to all these horrific things that if a normal person seeing that in the street, they'd be traumatised by it some of them, know what I mean? I've seen guys getting ears chopped off in here, literally ears chopped off, and slashed to bits for the slightest thing. And that's on public record. I walked past that cell that night and goes 'oh aye, he looks like he's deid', know what I mean?"

"So, like, I've seen a guy with his hands being cut up with scars on his ears, and that's just a normal day for me. For you that's a crime, but for me, now, it's like 'aye, alright'. It just flies right over me." (108483)

Deteriorating mental and physical health: Prison had a negative effect on the mental and/or physical health of some individuals, especially those who had experienced or witnessed violent incidents such as those described above.

"I've got mental health problems and that. I suffer from paranoia, I've got anxiety, things like that, know what I mean. I don't know if that's just being in jail all these years, or all the things I've seen in the jail that's happening."

"It's affected my confidence and my mental health. **And your physical health?** Well look at me, I'm just putting weight on to be honest. Eating because that's all I can do."

Negative impact on relationships: Those who spent most of their adult lives in prison found it very difficult to sustain relationships and often made the choice to break contact with family, friends and partners due to the difficulty and stress of maintaining contact.

"I've had to cut most of my relationships off because I've ended up in jail. Fucking, there's so many I can't remember their names. Aye, I mean, there's nae point being in jail and having a relationship."

Mixed opinions on support services: People had different experiences of services and support within prison, depending on when and where they had been incarcerated. Of those with prison experience who were interviewed at age 24, just over half said they had been given support to reduce offending whilst in prison; however, around two thirds felt prison had had no impact on likelihood of offending. A decade on, opportunities for training and support were talked of mostly in negative terms, although some acknowledged that personal issues, such as lack of trust and fear of rejection, made it difficult to ask for help or accept it.

"There are people that want to help you, but I don't know how much they want to help you. You've got to trust them. That's a big thing with me, trust, know what I mean? "

"***Do you think asking for help is something you've struggled with?*** Aye, definitely. ***Why do you think that is?*** Maybe I don't like taking no for an answer. If the doctor says 'no, I'm no giving you any medication' or whatever. I don't know."

Opportunities for learning: People in custody in early middle age described limited opportunities for learning or training within prison, which contributed to problems ranging from laziness and boredom, through to drug use and extreme violence.

"The painters are still there, but apart frae that, you dinnae get anything… especially long term prisoners. See 90% of the hall, we just sit in here all day."

Lack of a deterrent effect: Those with prison experience rarely thought that prison had a deterrent effect on offending behaviour. Indeed, some suggested that jail was easy to handle and just a hurdle to be negotiated.

"I mean, jail's no bother. You've got [X-Box] 360s in your cell, it's like a holiday camp in here. This isnae a jail. It's no. It's easy as fuck. There's nothing to deter you coming in here."

Transitioning out of prison into the community

Critical factors which supported pathways out of offending for the Edinburgh Study cohort included: loving relationships, having children, and getting a stable job. The process of desistance was fragile for some and could be derailed by: mental health problems (depression and anxiety), drug use and adverse experiences in adulthood (such as relationship breakdown, losing a job, having a serious accident or illness, being interfered with sexually, or having someone close to them die through homicide or suicide). Where the criminal justice was seen as having positive impact this was in terms of individuals rather than programmes: a positive relationship with someone who was there for them; continuity of involvement; and someone who could provide advocacy.

Interview data at age 24 and age 34 reinforced the ways in which the prison experience and lack of support during transitions back into the community undermined pathways and mechanisms of desistance.

Lack of throughcare: Of those with prison experience interviewed at age 24 and age 34, most had negative views about the support offered during the transition from prison back into the community, with around two thirds reporting no practical help or counselling after release. Lack of support and services meant that many struggled to cope with life on the outside and had little sense of hope.

> "I cannae cope outside, know what I mean. It's like, I've been in the jail all these years, and I go outside and it's just … there's nothing for me."

> "I should have had a support package until I was 21. But they didnae. They cut me off when I was 15. As soon as I left I was cut off from everything."

Barriers to employment and education: By age 34, those who were still in prison had little hope that they would be supported into employment or education on release. Lack of information or support meant that people in custody were either unaware of how to move forwards or were certain that there were no opportunities left open to them. Having a criminal record was seen as a major barrier to getting a job.

> "I want to take a degree in Archaeology and that but I cannae. Well, I probably could, but I don't know if you could do that with a criminal record and that. I'm no clued up on that kind of stuff."

> "I lied on my application. There was a firearms charge that I never said anything about. It was just for a crappy wee BB gun. So, he basically said 'listen, get the fuck out of my office'. And that was me at 18 and I thought if the army's telling me to fuck off, if they're no going to gie me a job, who the fuck is."

> "Nobody wants to take somebody on that's been in prison all their life, you know?"

The revolving door: Labelling and stigma are critical aspects of the post-prison experience, resulting in revolving door back into prison for some. Being a known offender increased the likelihood that individuals would be monitored or targeted by the police, even when this was not believed to be warranted.

> "I think they've got a special drawer for me. They get charges and they put them in the drawer. So that when I get back out and I've got nothing wrong with me, that's when they start pulling them out and trying to charge me with things."

Policy implications

- The findings on pathways into imprisonment have implications for education, juvenile and youth justice and for early preventative intervention, suggestive of a need for governments to work more effectively across policy portfolios. Prisons policy alone cannot address many of the factors which beset the lives of those who become prison experienced by early middle age.

- Prison policy, however, can and should take cognisance of factors driving pathways into imprisonment (including poverty, early trauma, educational disruption) as well as factors supportive of pathways out of offending (such as positive relationships, employment opportunities, health and wellbeing support) in terms of developing an overarching regime and specific programmes: be both past and future facing.

- Educational programmes are more likely to be successful if delivered as part of a holistic approach focused on addressing potential sources of early harm and stigma. Such programmes need to be mindful of specific learning needs of people in custody, with careful screening for such needs, and capacity to provide multi-modal approaches to learning and teaching to ensure such needs are met.

- Training and job experience are critical in enabling transition to the community, overcoming stigma and in supporting desistance pathways. Further investment is needed in prison 'industries' and meaningful work opportunities.

- Investment is also needed in throughcare staff, and enabling such staff to work with people in custody prior to, during and after transition into the community. Creating a more joined up approach with services in the community, and supporting people to make more meaningful choices, would pay dividends in terms of reduced risk of re-offending and re-imprisonment.

- Further support and services are needed to enable people in custody to sustain relationships within the community, including conjugal visits, and support for family visiting.

- Investment is needed in core prison staff: to enable continuity in relationships and advocacy; to help build trust and to help tackle cultures of violence; and to support the development of wider opportunities for people in custody including work, training and education.

- Continued investment is needed in medical care for people in custody both mental and physical health: more efforts need to be made to encourage people to reach out for help in order to prevent crises.

- Trauma informed approaches are vital to recognising early childhood adverse experiences but also, critically, adult adverse experiences – both within prison and in the wider community.

- There appears to be a disjuncture between the Scottish Prison Service vision (to be person-centred, inclusive, trauma-informed and rights-based) and the lived experience of people in custody. There needs to be greater clarity amongst policy makers about what the true purpose of prison is and more emphasis on ensuring that strategy, investment and communications (especially with people in custody) match that intended purpose.

Evidence base

This briefing paper draws heavily on findings from the Edinburgh Study of Youth Transitions and Crime (ESYTC). The ESYTC is a programme of research that has been running for over 25 years. The overarching purpose of the study is to examine the causes and consequences of young people's involvement in crime and anti-social behaviour. The core of the programme is a major longitudinal study of a single cohort of around 4,300 young people who started secondary school in the City of Edinburgh in the autumn of 1998. The study also involves a complex set of administrative data linkages which allows it to explore the lives of study members in significant detail. It is the only study of its kind in Scotland, and one of the most influential longitudinal studies internationally.

The study has been conducted over a number of phases: The first six phases tracked the cohort from age 12 to age 17, when they were eligible to attend secondary school (1998 to 2004). Over this period, the study collected information using questionnaires completed by the cohort members and administrative data from official records including education, social work and criminal conviction records. The seventh phase of the study involved updating the criminal conviction records and conducting in-depth interviews with a sub-sample of the cohort at age 24 (2011/12). The eighth phase of the study at age 35 has recently been completed. This involved further updating the criminal conviction records a short online survey with all cohort members and in-depth interviews with a sub-sample at age 33 (2019/20).

[i] Auditor General Scotland (2023) *The 2022/23 audit of the Scottish Prison Service*.
https://audit.scot/uploads/docs/report/2023/s22_231212_scottish_prison_service.pdf
[ii] Scottish Government (2023) Scottish Prison Population Statistics.
https://www.gov.scot/publications/scottish-prison-population-statistics-2022-23/
[iii] McAra, L. and McVie, S. (2018) Transformations in Youth Crime and Justice across Europe: Evidencing the Case for Diversion. In B. Goldson (Ed) Juvenile Justice in a Euro-pean Context. Routledge. Auditor General Scotland (2023).
[iv] McAra, L. (1998) *Parole Board Decision-making*. Scottish Office: Central Research Unit.
McAra, L. and McVie, S. (2022) Causes and Impact of Offending and Criminal Justice Pathways: Follow-up of the Edinburgh Study Cohort at Age 35. Edinburgh: University of Edinburgh. https://www.law.ed.ac.uk/sites/default/files/2022-03/ESYTC%20Report%20%28March%202022%29%20-%20Acc.pdf

THE UNIVERSITY *of* EDINBURGH
Edinburgh Law School

This briefing paper was produced by Professors Lesley McAra and Susan McVie. Any responses to the briefing paper should be directed to the paper authors, whose details are provided below.

Professor Lesley McAra, University of Edinburgh
Lesley.Mcara@ed.ac.uk

Professor Susan McVie, University of Edinburgh
smcvie@ed.ac.uk