

Volume 2 | Number 3 | November 2014

# scottish justice matters

## LIVING IT

**CHILDREN, YOUNG PEOPLE AND JUSTICE**

**Edited by Claire Lightowler, Susie Cameron and Brian Rogers**



# editorial

**IT IS** particularly appropriate that this edition focuses on young people because, as McAra and McVie remind us, 2014 is the 50<sup>th</sup> anniversary of the pathbreaking Kilbrandon Report which emphasised the need to look at the often damaged backgrounds of young people who offend. Our contributions suggest that this is as relevant today as it was then, and there remain many problems of provision. As our guest editors, Claire, Brian and Susie, explain, the themed section aims to prioritise the voices and lived experiences of young people themselves over professionals or institutions.

These voices speak of the serious, multiple and interrelated traumas experienced by so many young people at the hard end of the system with Kate's and other stories depicting a seemingly never ending cycle of drugs, alcohol and offending so often accompanied by, as Vaswani shows, experiences of domestic abuse and bereavement, and by the range of mental health issues so well illustrated in Pilgrim's contribution. Young people are also, as we know, often victims and now suffer, as Cowie reveals, from 'new' forms of cyber bullying which are no less disturbing than face to face bullying, from the kind of violence in the home which Donaldson considers, and can also be adversely affected by the incarceration of family members as described by Robertson.

While for many offenders involvement in crime is transitory, as McAra and McVie point out, these stories are typical of the minority of offenders for whom the stigma and experience of being involved with the criminal justice process can trigger a circle of further involvement and offending. Their experiences also reveal many gaps and limitations of provision and all too often missed opportunities. Pilgrim highlights serious limitations in dealing with the often neglected mental health needs of young people, and stigma can, as Thomson illustrates, severely hamper employment prospects. Kelly, from Moray, emphasises the role of social work as a means of avoiding custody and the contribution from APEX stresses the importance of pursuing inclusive approaches with those who have been excluded from school. At least there seems to be a political consensus revealed in our 'Take 5' feature, that it is indefensible that our age of criminal responsibility is as low as eight years old.

The picture is nonetheless not all bleak, and young people's lives can be turned around. Bozic stresses the importance of listening, respect and trust whether from family or support workers, Thomson looks at innovative employment schemes such

as Social Bite and Cameron points to the importance of the kind of structure provided by physical activity and contact with the Army, Police and ex-offenders. It is also important to recognise that custody, so often viewed negatively, can have, as Becca's and other stories indicate, positive aspects. Nonetheless, globally, there are too many children in prison. Tomasi's article in our international section, introduces us to Defence for Children International's campaign for a Global Study on Children Deprived of Liberty, arguing that this would be a starting point, a means of getting the issue of child detention up the local and international agenda.

Our regular features and current issues articles echo many of these themes. Donaldson, discussing approaches to domestic abuse, stresses the importance of taking children's views into account in relation to contact with the abusing parent, and Bissett, a Scottish Government justice analyst outlining the use of a logic model for evaluation, talks of the many problems of 'proving' what 'works' across the vast range of projects in the context of limited funding and competitive tendering. The interview with Shoket Aksi stresses the distinctive problems faced by and the importance of taking a culturally sensitive approach with BME offenders. Briege Nugent reviews the 'Panopticon' a vivid, absorbing, fictional account of one young girl's experience of residential care. Issues of policing young people and 'boy racers' are outlined by Wallace in the case of the 'beach bouley' in Aberdeen, and in our other historical contribution Forrest provides a fascinating account of attempts to control prostitution and the criminalisation of women in Victorian Glasgow.

Lastly it is appropriate in our November issue, and perhaps most poignantly this year, to think about the challenges that some ex-military men and women face in civilian life, and how, for some this results in involvement with criminal justice agencies. McEneaney sets out the situation insofar as it is known in Scotland, and some of the responses.

Finally, we'd be very grateful if you could let us know what you think of the SJM here:

<https://www.surveymonkey.com/s/SCFMBL9>

**Mary Munro and Hazel Croall**



Don't forget that you can still buy a paper copy and read a digital version of our previous issues on *Reform In Scottish Criminal Justice* (June 2013), *Desistance* (December 2013), *Arts And Justice In Scotland* (March 2014) and *Health And (In) Justice* from [www.magcloud.com](http://www.magcloud.com) as well as download free .pdfs from our web site, listen to our interviews on [www.soundcloud.com/sjmjournal](http://www.soundcloud.com/sjmjournal) and explore our Pinterest boards on [www.pinterest.com/SJMJournal](http://www.pinterest.com/SJMJournal)

# scottish justice matters

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# LIVING IT

## CHILDREN, YOUNG PEOPLE AND JUSTICE

**OUR MAIN AIM** in editing this issue has been to create a space for those who had contact with the justice system as young people to share their experiences and reflections.

This issue represents an attempt to shift power and control a bit from the professionals who usually edit these types of things, to people who have lived it. This started with creating an editorial team that includes members who have committed offences as young people, been young victims of offending, work with young people involved in the justice system and provide support to those working with young people. The process of working on this hasn't been easy but we've loved it and have all benefited hugely from it.

Rather than focusing on services, structures or organisations our starting point has been the issues that are important to young people. This publication is slightly different from other editions of *Scottish Justice Matters* because to ensure space is given to those who have lived it, there are fewer contributions from the research and professional community, though their voices are also here and we are really grateful for their input.

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**Regardless of the constitutional future for Scotland and what comes next, we need to be more careful to ensure that young people can have an active role in shaping their own lives and the society in which they live**

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The young people who shared their, often very personal and moving stories, did so because they want things to change and improve. They clearly articulate practice and policy changes that could have improved their lives. Most of those sharing their experiences as young people are now quite far along the road of dealing with the issues associated with their contact with the justice system, and we wish them all the very best. It's not always been easy for them to share their stories, and it's noticeable that they have done so primarily for the good of the young people that follow them. We strongly believe that we have a responsibility to listen carefully to their voices and all of us need to reflect on what we can do, whatever your role or position in society, to make a difference to children and young people who may be experiencing similar things.

The lived-experience contributions include: Amie Robertson who tells us about having a brother in prison, Kate reflects on her offending journey, Brian Rogers tells us about his attempts to secure employment, two 16 year old boys from Glasgow give us an insight into bullying and the online gaming community and Becca shares her views about being in secure care. There is also a contribution compiled by Charlotte Bozic which documents young people's stories about those who have made a difference to them.

We also have contributions about issues that young people identified as being of particular importance, this include the impact of trauma and loss (Nina Vaswani), mental health supports (Sophie Pilgrim), supports for those leaving custody (Jane Kelly), the evidence about cyber-bullying (Helen Cowie, Brian Donnelly), employment (Josh Littlejohn and Richard Thompson), school exclusion (Karen Pryde) and a piece about Youth Advantage Outreach as an example of alternative supports for young people (Susie Cameron).

The final piece is a review of the Edinburgh Study of Youth transitions and offending, a major research study which follows young people's journeys from secondary school into adulthood, which provides a useful context to the issues explored (Lesley McAra and Susan McVie).

The referendum campaign has been in the background throughout our editorial journey and as we start to look back we think it has highlighted our key point: that young people have something of value to say and to contribute. Regardless of the constitutional future for Scotland and what comes next, we need to be more careful to ensure that young people can have an active role in shaping their own lives and the society in which they live. We need both to listen to young people's views and experiences, respond to these experiences, ensure they have an opportunity to actively contribute and support them more effectively to make such a contribution. This is of even greater importance when we are living and working amongst young people who are experiencing significant challenges and who may particularly struggle to contribute or articulate their experiences and views if we don't change how we do things.

Society, practice and policy needs to improve to prevent a similar publication appearing in the future which documents almost identical stories. For us, the key thread running through this issue is a call for change which involves children and young people as partners in it.

**Susie Cameron** (HNC Social Care student), **Claire Lightowler** (Centre for Youth and Criminal Justice, University of Strathclyde) and **Brian Rogers** (Social Bites worker and student).



# YOUTH ADVANTAGE OUTREACH A CHANCE TO CHANGE

**Susie Cameron**



**YOUTH ADVANTAGE OUTREACH** was formed 14 years ago as an initiative between the Army and the Police. Conducted by the Army's Recruiting Group alongside Police Scotland and other agencies, the five day residential courses provide diversionary activities for young people aged 14-17 who are on the cusp of crime, disadvantaged, disaffected or disengaged from society. The course is also open to young people who have no offending background but may just have an interest in the armed or uniform forces, or who lack self-confidence or esteem. YAO regularly reaches out to over 300 young people per year.

I'm writing this article before my last course as full time staff at YAO, as I am now attending full time education. A nervous anticipation goes through the staff team as we await the young people's arrival. In store for them is an intensive five day residential course which aims to teach the Army Core Values and Standards as a firm foundation and also complies with GIRFEC principles.

I am a civilian worker on the course, alongside police officers, social and youth workers or teachers. The army team delivers the course and together we run Youth Advantage Outreach. The course has evolved massively in the five or so years since I first attended.

Inductions, team games, kit issue, sports and first aid training is delivered on day one. Tuesday is the first of the

full-on structured days with everyone expected to be ready outside the cookhouse by 7am. Physical activities take place predominantly outside: evening activities are less formal and take place in a classroom. The young people do have some time out in the evenings before lights out at 10.30pm.

The intensity of the course can overwhelm some of the young people; it is designed to positively challenge them. Recognising those who are finding it tough who need that extra bit of is a skill for the varied staff team. An effective tool to break down barriers, in particular if the course is staffed by police officers, is for the staff to take part in the activities alongside the young people. At the start of the week many of the young people don't have a particularly good relationship or perception of the police. Come the end of course they admit they have changed their minds - one of the many changes that can take place in just five days.

One of the classroom inputs is a talk from an ex-offender who attends the five day course and also provides an evening input to the young people. It is an emotional talk to inform the young people of the dangers and consequences of alcohol, drug misuse, offending. It highlights the consequences if they continue down the offending route and the long term effects.

Wednesday features adventure training; raft building, abseiling, rock

climbing and so on. Thursday is all about putting into action what they have learned so far and working on army skills needed for the night exercise and sleep out. The young people build their shelter and after dark each section has a mission to get to enemy territory and retrieve property, doing their best to work together and avoid the enemy who are spread out in the area.

The last day signals prize giving; best section, best at sport, most improved student. Despite being exhausted the young people are elated. On Monday they were strangers unsure of what lay ahead, but now they leave with self-confidence, achievement and an optimism they can change. Some do join the armed forces and many go onto a positive destination but there is always more to do. I recall one participant initially was very difficult: with support they were a different person by day three going onto win the Most Improved student. Regrettably change back home was short lived. After seeing their potential for 5 days you always want to do more to prevent young people choosing this lifestyle.

It has been an honour to work with young people, being a small part of their life and I hope I made a difference. Young people need choice, inspiration and the chance to change - this course does that.

**Susie Cameron** is one of the theme editors for this issue and is currently studying for an HNC in Social Care.

# TIME TO CHANGE

## IMPROVING SUPPORT FOR YOUNG PEOPLE AFFECTED BY IMPRISONMENT

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Anthropology student **Amie Robertson** tells us about her own experience of her brother's imprisonment.

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**"WHAT COULD BE DONE DIFFERENTLY TO IMPROVE YOUR EXPERIENCE OF HAVING A PARENT OR SIBLING IN PRISON?"** is a question that should be put to all young people affected by imprisonment. Unfortunately, it is one that was only ever posed to me after my brother's sentence was over, following seven years of little to no support. My experience is similar to that of many young people affected by this issue, and it is for them that I have decided to speak out in the hope that, in future, others will not be in my position.

My brother was sentenced when I was only 12 years old, and at the time, I couldn't imagine anything more shameful or shocking. Despite knowing that my brother was going through a difficult period in his life, and was involved in alcohol-related offences, I was far too young to understand the wider societal dynamics that can lead individuals to commit crimes. As far as I was concerned, people had always told me that 'prison is a place where bad people go', and it is no surprise that I, like many other young people in my position, internalised this.

Some of the emotions around a family member's imprisonment are short-term, such as feelings of confusion, anger, and isolation, and these could be reduced if the right support was put in place. In my experience, the longer you harbour these emotions without engaging with them, the deeper they embed themselves into your mindset. If they don't address them, young people will release these emotions by lashing out in various (and sometimes harmful) ways.

Everyone's experience of having a close relative in prison is different, but I would like to take this opportunity to offer two specific ways in which, I believe, we could immediately change the experiences of young people affected by imprisonment for the better.

Experiencing my brother's imprisonment during the early years of high school was not easy, and it's only now that I have actually been able to accept this and voice it. One of the most important things to remember is that those facing imprisonment, as well as their family members, are unfortunately highly stigmatised in society as a whole, and because of this, can feel extremely isolated. My friends didn't have the experience needed to fully support me during that volatile time, and my family were suffering themselves.

One of the biggest things that would have helped would have been a support group with other young people

experiencing similar situations where we could discuss our worries and fears unashamedly in a safe, inclusive environment. I hadn't actually met another young person who had had a similar experience until I contacted Families Outside after my brother's release; I would never wish for another young person to go through that so alone! By offering young people a chance to speak openly, their confidence can grow, and their feelings of shame can begin to diminish.

Another critical issue is that there seems to be a serious lack of institutional understanding of how to support families affected by imprisonment. Being at high school, this should have been my closest link to appropriate help, and yet one token appointment with the school's therapist was all I was offered, at which it was determined that I apparently didn't qualify as 'needing help'.

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**As far as I was concerned, people had always told me that 'prison is a place where bad people go'**

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Teachers themselves generally do not have the adequate experience to realise the trauma that can come from experiencing a family member's imprisonment. To address this, I would highly encourage schools to engage with teacher training, such as that run by Families Outside, in order to fully commit to understanding young people's experience of this issue.

Despite the fact that support for young people affected by imprisonment desperately needs improvement, I am hopeful that the possibility for change is within our reach. Every time I hear a supportive voice on the topic, I feel that bit more confident to speak out; and when those most affected are heard, that's when real change happens. I hope here that I have conveyed the real urgency in addressing these issues, but most of all, I hope that other young people affected will have the courage to believe that we can change things!

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Approximately 27,000 children are separated from an imprisoned parent each year in Scotland. To hear more of their voices, visit <http://vimeo.com/96077929>

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# GROWING UP IS HARD TO DO

Exploring the connection between childhood trauma and youth offending

Nina Vaswani

**THROUGH ADULT EYES** childhood might seem like a carefree time, unburdened by the trials and tribulations of modern life. Yet with common childhood experiences including exam pressure, worries about body image, family breakdown, bullying, relationships and simply the pressure of forging independence, even at the best of times growing up is hard.

## But what if childhood was not the best of times?

At least 16,500 children in Scotland are estimated to be affected by the imprisonment of a parent or close relative each year, more than are affected by divorce. In the UK, around 20,000 children are affected by the death of a parent each year (Winston's Wish, 2014), with certain disadvantaged groups such as young offenders disproportionately affected. My own research with 33 young men in HM YOI Polmont found that 91% of these young men had been bereaved, and many had suffered traumatic and multiple losses (Vaswani, 2014). Furthermore, more than 50,000 children in Scotland are estimated to live with domestic abuse and one in seven children across the UK are estimated to suffer from parental neglect. Even the system responses that exist to alleviate these adverse circumstances, such as being taken in to care, can be a traumatic experience for young people. How do young people facing adversity navigate through these already difficult years?

## The impact of trauma

Typical responses to trauma include *physical* symptoms such as headaches, stomach aches, palpitations, loss of appetite or sleep problems, and *emotional* reactions such as anxiety, grief, self-blame, anger, rumination or numbness (see Snapshot 1). These symptoms stem from the evolutionary 'freeze-flight-flight' response to stress and in a non-problematic scenario these symptoms are short-term and tend to subside over a few months. Experiencing such stressors in childhood need not, therefore, have a long-lasting impact: children are remarkably resilient and with the right support can go on to lead positive and fulfilling lives. "I believe that everything happens for a reason...it only made me stronger..." (young adult preparing to leave foster care, Samuels and Pryce, 2008).

### Snapshot 1: Bereaved young men talk about their responses to loss and trauma (Vaswani, 2014).

"I did have thoughts when she died, 'I shouldnae have done this' and 'I should have done that'."

"I felt angry at the guy that killed him... for a long time, I know who it was...not long after I came across him and all I thought was revenge."

"I've certainly not cared about people as much, because after losing friends, and losing friends before, I was probably wondering 'why is this happening to me?'"

However, for young people who experience repeated traumas throughout childhood, or for those who do not receive the support they need, these experiences can have a significant and detrimental effect on their future physical and emotional health. There are many reasons why a young person may not get the help they need, such as a lack of appropriate support networks or difficulties in identifying and articulating their emotional responses. Young males often face additional barriers to help-seeking due to gender-role socialisation and a tendency towards a macho culture. The stigma of certain losses and experiences (for example, parental imprisonment) may mean that a young person might not disclose their circumstances to others who could help.

Other losses are more ambiguous, for example temporary separation from family, or the death of an abusive parent, which can cause confusion, complicate

responses and can be likened to 'disenfranchised grief' (Doka, 1999). Lastly, abuse and neglect can leave young people with disorganised and problematic attachment relationships: they may push away the very people that are trying to help. "When I was younger my mum used to hit me...It did affect me...I'd take my anger out on people that I liked most" (young man convicted of a serious offence, Centre for Crime and Justice Studies, 2011).

### Snapshot 2: Stoicism and gender roles

"I didn't want any [support] I just wanted to be a big man...I was going to the dark side and I was lovin' it" (young man attending a Youth Offending Team, Paton et al., 2009).

"Some people really try and put on a brave face, I haven't seen anyone cry ... because you don't want to show anything like that for reputation ..." (Vaswani, 2014)

"I'll just keep plodding on. It's all you can do. Sooner you realise that the better cos eventually everyone is going to die anyway" (Vaswani, 2014).

Without intervention these emotions and stress responses can manifest as challenging behaviours, especially as trauma can also leave children vulnerable to over-reaction to even innocuous incidents. Anger, irritability, aggression and poor concentration are all natural responses to loss and grief, but may be misinterpreted, and therefore responded to, by adults as poor behaviour rather than an expression of underlying trauma. Traumatic events in childhood can therefore be linked to a range of risk-taking behaviours in adolescence and adulthood, with the risks increasing with greater exposure to adverse life events. Behavioural responses such as substance misuse, risky sexual-behaviour, suicide, and reduced awareness of danger are common. These behaviours can generate exposure to further trauma, thus marking the start of a cycle of victimisation and adverse life experiences.

### Snapshot 3: Coping strategies

"One minute I can be okay then a minute later, I can start to kick off, I can just change in seconds" (young man convicted of a serious offence, Centre for Crime and Justice Studies, 2011).

"The more I drank the more I wouldnae think of him basically... Not to forget about him but forget about that [death]" (Vaswani, 2014)

"I was getting picked on by my step-dad. You have abuse happen to you and it doesn't feel like it was dealt with and you want to rebel to get away from the feeling" (young woman, User Voice, 2011).

Given this behavioural response to childhood trauma, it is not surprising that traumatic events feature regularly in the backgrounds of young people involved in offending. Substance misuse is strategy frequently employed to mask and forget about pain, but can lead to an increased risk of becoming entangled with the law. Risk-taking can lead to young people making the wrong decisions. Frustration and anger can often lead to violent outbursts with potentially disastrous consequences, as young people who had experienced extreme hurt wanted others to experience their pain too. Thus young people involved in the youth or criminal justice systems, especially those in custody, tend to report higher levels of trauma, adverse childhood experiences, and multiple losses than young people in the general population. It is therefore unsurprising that mental health needs such as anxiety, depression and somatic complaints are also a common feature in this vulnerable population.

### Snapshot 4: The connection between loss, trauma and offending?

"Like I don't think I would be here if my Gran didnae die because my behaviour kinda changed, I'd no been in prison before ..." (Vaswani, 2014).

"If you're in a negative habitat ... if people feel sad about themselves then misery needs company, I want someone else to feel how I feel, you see what I am saying" (young man, User Voice, 2011)

Experiences of loss and trauma in childhood can have profound and long-term implications for young people. Even small traumas can have an accumulative effect, but may be missed or underestimated by the adults trying to help. Furthermore, system responses such as being taken in to care or imprisonment further compound these losses and can be experienced as traumatic events in themselves. It is therefore important that professionals, and also society as a whole, can recognise the impact of trauma in young people, and understand that young people with a background of traumatic and adverse experiences may respond to events in what appear to be unexpected ways.

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# What Criminal Justice Social Workers Do

## The view from Moray

**Jane Kelly**

**MORAY COUNCIL'S** social work with young people in trouble with the justice system remains split between the Youth Justice (under 16) and Criminal Justice teams (16 plus). However there has been a high degree of overlap across both teams in recent years which has been further enhanced by the adoption of the Whole System Approach (WSA) and the formation of a Justice Services department under one service manager following restructuring.

There is an issue with young people who have been supervised through the Children's Hearings and whose supervision stops at 16, even if they have outstanding offences. However, it is possible in an 'adult' criminal justice social work report to highlight to a Sheriff the possibility of remitting the case so that it can be dealt with by the Hearings system.

Enabling young people to remain in the community by offering alternatives to secure care and custody is not only cost effective but contributes to better outcomes. For example, Stephen and Christopher were separately charged with sexually motivated offences. Individual support and supervision packages were designed by Youth Justice colleagues and delivered in partnership with a range of Council colleagues and third sector agencies. Both young people were fully supported during all Court appearances and support and guidance was offered to their respective families or carers. There isn't space to detail all that was done, but for example, both continued to receive an education and accommodation was made available as necessary. Detailed assessments were undertaken, individualised programmes of work offered and risk management processes followed in order to reduce the risks posed.

**Enabling young people to remain in the community by offering alternatives to secure care and custody is not only cost effective but contributes to better outcomes**

It is also not uncommon for young people coming into the adult criminal justice system to have experienced difficulties with their mental health. Accessing Child and Adolescent Mental Health Services locally can be difficult as young people often do not meet the criteria for referral as they do not have

a recognised condition. Whilst this is an issue to be addressed, we welcome new initiatives such as the 'Phoenix Project', a local resource for younger adults who have mental health difficulties.

For example, Kirsty was a looked after young person who was taken off statutory supervision at the age of 16 despite having pending Court appearances. Her mental health and related behaviour deteriorated and she was remanded in custody. The Criminal Justice Social Work Report highlighted the availability of remittal to the Children's Hearing System and successfully presented the case for a structured deferred sentence whereby we were able to build a team of appropriate professionals around Kirsty upon her return to the community. This included supported accommodation, a psychiatric service and an Activity Agreement organised via our 'Opportunities for All' service. Although Kirsty is not yet ready to work or manage her own tenancy she is fully engaged in working towards positive destinations in all aspects of her life.

Young people who commit very serious offences will invariably be dealt with by the adult criminal justice system. Stacey, aged 15 was sentenced to 16 months detention for such an offence. Already on compulsory supervision through the Hearings system, their advice was made available to the Sheriff and alternatives to custody highlighted within reports. A community disposal was not pursued by the Court and Stacey was placed in secure accommodation under s. 208 of the Criminal Procedure (Scotland) Act 1995. She was also made subject to a period of post release supervision.

The team working with Stacey maintained contact throughout her time in secure care. As the supervision order was running in parallel with her sentence we were able to maintain her secure placement beyond the sentence expiry date in order to enable her to sit her exams and to address the issues which would impact upon a successful return to the community. Stacey is now in her own tenancy and is attending college having passed all her exams.

We aim to offer a similar service to young people in custody by developing release plans in partnership with SPS and partner agencies such as Shine (<http://www.shinementoring.org/>) (for young women) and New Routes Out of Prison (for young men). We can offer a substance misuse and/or social work support service as well as having access to mainstream substance misuse services through Turning Point's 'Studio 8' service. (<http://www.turningpointscotland.com/what-we-do/substance-misuse/studio-8/>).

**Jane Kelly is a criminal justice team manager in Moray with responsibility for the Whole Systems Approach.**



# MOVING ON FROM A VIOLENT CHILDHOOD

Kate\* is a 28 year old who would like a career in youth justice. She was involved in offending between the ages of 14-27 and was first convicted at the age of 16.

\* Not her real name.

**I WAS GIVEN** a two year community payback order in March 2013. Before this, my life was very unstable.

From as young as I can remember violence was just a part of growing up, a way of life. When you are brought up the way I was, you don't know any better.

As a little girl, the council close where we lived was quiet, until we got new downstairs neighbours who from their first night had the street in an uproar. I can remember constantly being woken up, lying in bed scared as I listened to the man smashing up his house and fighting with his wife. I remember always seeing her with big black eyes. To this day I've never seen anyone with eyes as bad as hers, and I've seen a lot of fights.

One of my earliest memories is of being chased by a group of older children as I walked home from school. Terrified, I ran home as fast as I could, where my Dad was waiting. I panted out what was happening and was relieved when he stood up, and marched me to the door. I thought he was going to sort it for me. I was wrong – he told me to stand up for myself or he'd batter me! Knowing from experience that a battering off my Dad was much worse than anything else, I ran out, kicking and punching as hard as I could as I went. I got knocked out, but my Dad's proud face was the first thing I saw when I came round. "That's how you take a doin' hen' he said, handing me a glass of his favourite brandy – my first taste of alcohol, and acceptance.

From that day on, I had an appetite for fighting – for the adrenalin, the buzz and the respect of the people I'd previously feared. I became popular, with older kids taking me under their wing. I started drinking with them and finally felt I belonged somewhere. Although I got caught by the police a lot, my dad's only reaction was anger that I'd brought the 'polis' to his door.

During this time, teachers must have been aware of what was going on with me, but I never had any support. I think they were glad to get me out of their classrooms.

I spent the next ten years in a cycle of offending and getting caught. It finally came to an end when I was arrested and ended up getting a supervision order, with which I had no choice but to comply, or risk losing my wee boy.

Since then, I've turned my life around. I can't believe how much things have changed in the last 19 months. Two years ago I'd never have imagined being in the place I am today. I now have dreams and goals and not only that, I have people who believe in me. For the first time in my life, people see me as a person. Not an ex-offender, not a case, but as a young woman with my full life ahead of me.

It hasn't been easy though, and I'm still coming to terms with my violent childhood. I can't help but wonder how things would have turned out if someone had taken the time to reach out to me, and show me other options besides fighting, drinking and belonging. When you haven't been brought up with boundaries, or adults setting good examples, then you don't think about the consequences. Your main worry is the doing you'll get off your parents if you get caught. In all the years I was offending, I never really gave a thought to the consequences of my actions, or the people I might have been affecting.

I want my little boy to have the chances I never had. To grow up with a moral code, knowing what is right and what is wrong. I am excited for my future although I'm not sure what it holds yet. I know that without criminal justice I would never have found myself, and am so grateful to the judge who sentenced me, for giving me the chance to start again. I just wish I'd known how to access this help sooner.

**IT IS ESTIMATED** that 1 in 10 children and young people aged 5-16 in Scotland suffer from a diagnosable mental health disorder. That equates to around 3 children in every class. Common conditions include ADHD, autism spectrum disorders, depression, anxiety, and eating disorders. At Kindred Scotland we support over seven hundred families each year, only a handful of whom have any involvement with the police. We work to support families to access Child and Adolescent Mental Health Services (CAMHS) but, to my knowledge, our staff have never engaged with 'Forensic CAMHS' or 'FCAMHS', specialist Child and Adolescent Mental Health services working with young offenders. The uncomfortable truth is that we are a parent-led organisation and young offenders have far less parental support in their lives and are therefore highly unlikely to access our service.

Yet research indicates that approximately 50% of those with care experience will have a mental health problem (Barnardo's Scotland, 2012). It is recognised that young people with care experience are far more likely to end up homeless or in prison, with around 45% of young offenders having care experience. This, coupled with high probability of mental health issues, leads most to enter into a cycle of reoffending and increased mental health problems.

The Interventions for Vulnerable Youth (IVY) service, which provides specialist intervention and supports risk assessment and risk management plans for young people

who are at risk to others, reports a high level of complex mental health needs for the young people referred to them. Since April 2013, of the 30 young people they have supported, 76% had been exposed to domestic violence and 88% had experienced some other form of maltreatment. Of these 30 young people some of the most commonly identified diagnosed or suspected mental health issues included: autism spectrum disorder (12), ADHD (10), Complex Post Traumatic Stress (12), deliberate self-harm (12) and substance misuse difficulties (15). Further, the mean number of mental health issues was estimated to be four per individual, so in addition to the complexity of each, there is the added complexity of the interplay between multiple mental health conditions (Lightowler, 2014).

Many young people in our prisons and young offender institutions have mental health issues. Approximately 80% of offenders in Cornton Vale are reported as having mental health problems (SAMH, 2012) and up to two-thirds of the inmate population at Cornton Vale are on suicide watch in order to try and curb instances of self-harming. It is estimated that it costs as much as £239,000 per person, per year to keep a young person in a secure unit and the cost of the average prisoner to the state currently sits at around £35,000 per annum. It goes without saying that there is a need for more funding to deliver the level of professional support required to address the increasing challenges presented by those with mental health conditions. In addition to this there is a need for greater collaborative working in diagnosis and treatment and, perhaps most crucially, earlier intervention.

## Mental Health Provision for Young People is Just Not Good Enough

Sophie Pilgrim





Research has found that around 25% of children in England who offend have very low IQs of less than 70; 43% of children on community orders have emotional and mental health needs, and the prevalence amongst children in custody is much higher; 27% of children and young people who offend are not in full time education, training or employment at the end of their period of youth justice supervision (Prison Reform Trust 2013). In terms of early intervention, such children and young people need to be provided with specialist 'forensic' CAMHS services both within the community and, for a small minority, in-patient care. At present, in Scotland there is only one community Forensic CAMHS team in Glasgow and there are no in-patient beds. A report by the Royal College of Psychiatrists (RCP, 2013) concluded that child and adolescent mental health services are currently in need of development. CAMHS can only function adequately as part of a comprehensive tiered service that includes high-quality universal, preventive provision. The range of services must include in-patient acute and intensive care beds, planned treatment beds and alternatives to hospital admission (such as intensive outreach/home treatment teams).

The families that we support at Kindred must endure a long wait for assessment and treatment, leading many to reach crisis point. Families cannot protest when they don't know what to ask for and have almost lost hope, and children without a champion in their lives cannot speak out for themselves. Yet these young people can be provided with treatment, including medication, behavioural interventions and social activities that enhance self-esteem. "Intensive Behavioural Support" or "Intensive Treatment Services" provided under CAMHS to families of children with autism, for example, have demonstrated positive outcomes.

If treatment and behavioural support was available at an earlier stage families would have time to develop preventative strategies, before the predictable pattern of the 'nuclear' teenage years develops. Early intervention prevents the later need to fund often long term residential placements even for those who are not offenders.

Child and Adolescent Mental Health services are provided under the NHS. However, unlike other paediatric health services, families are forced to wait without advice or support while their child's health breaks down before them. Many of the families we work with experience challenging behaviour from their children including aggression and violence. It comes as no surprise that such high numbers of children and young people who offend have underlying, diagnosable mental health conditions. The Scottish Government has pledged that by December 2014, CAMHS waiting times will be 18 weeks or less, but, as a consequence of lack of resourcing and prioritisation of such services, along with an acute shortage of educational psychologists and child and adolescent psychiatrists and increased demand, this is not even close to being achieved by some health boards. Areas like Ayrshire and Arran and Tayside fall short of the current 26 week target by 32% and 29% respectively, let alone the 18-week target (ISDS, 2014).

Lack of recruitment to professional posts now means an increase in waiting times for psychiatry and psychology services. We will pay a high price for this lack of foresight. Already children and young people are sent down to England because of the lack of appropriate psychiatric in-

patient provision with Scotland. We need high level strategic management and greater prioritisation in order to get a grip on what is a critical situation before it gets any worse and creates further disadvantage for one of the most vulnerable groups in our society.

This is a key focus for the Scottish Children's Services Coalition (SCSC). We are calling on the Scottish Government to intervene and provide this support, working with organisations like Kindred in order to create a more joined up and effective approach. This will save those with mental health conditions and their families from the additional anxiety of lengthy waits to ascertain and treat their additional needs. And this begs the question, how many children and young people in Scotland today are in custody because there is no one to speak up for them?

**Kindred Scotland provides information, advocacy and emotional support to parents/carers of children and young people with additional support needs. Kindred is a member of the Scottish Children's Services Coalition, a policy-focused collaboration bringing together leading third and independent sector children's service providers. Its members deliver specialist care and education services for children with complex needs, such as learning difficulties and learning disabilities, as well as direct help and support for them and their families.**

**Sophie Pilgrim, member of the Scottish Children's Services Coalition (the SCSC) and Director of Kindred Scotland.**

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Scottish Children's Services Coalition (SCSC) [www.thescsc.org.uk](http://www.thescsc.org.uk)

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# CYBERBULLYING

children, young people and experiences of online harm



## The impact of cyberbullying on young people by Helen Cowie

### What is cyberbullying?

Face to face bullying is a well-known risk factor for the well-being of children and young people. The recent emergence of cyberbullying indicates that perpetrators have turned their attention to technology as a powerful means of exerting their power and control over others.

Cyberbullying takes a number of forms, including:

- ❖ **flaming:** electronic transmission of angry or rude messages;
- ❖ **harassment:** repeatedly sending insulting or threatening messages;
- ❖ **cyberstalking:** threats of harm or intimidation;
- ❖ **denigration:** put-downs; spreading cruel rumours;
- ❖ **masquerading:** pretending to be someone else and sharing information to damage a person's reputation;
- ❖ **outing:** revealing personal information about a person which was shared in confidence;
- ❖ **exclusion:** maliciously leaving a person out of a group online, such as a chatline or a game; ganging up on one individual.

Cyberbullying often occurs in the context of the break-up of a friendship or romance, envy of a peer's success, or through prejudiced intolerance on the grounds of gender, ethnicity, sexual orientation or disability.

The Europe-wide EU Kids Online survey of 23,420 children and young people found that, although the vast majority were never cyberbullied, 5% were being cyberbullied more than once a week, 4% once or twice a month and 10% less often (EU Kids Online).

### How does cyberbullying impact on young people?

Research consistently identifies negative consequences of bullying for young people's health. Victims experience lack of acceptance, loneliness and social isolation, with additional risk of psychosomatic symptoms like headaches, abdominal pain and sleeplessness. The young person's consequent social withdrawal is likely to lead to low self-esteem and depression.

## What can be done?

### *Technological solutions*

There exist whole-school e-safety policies and informative websites (such as UK Council for Child Internet Safety (UKCCIS) <http://www.education.gov.uk/ukccis/> and ChildLine [www.childline.org.uk/](http://www.childline.org.uk/)). Many schools now train pupils in e-safety and 'netiquette' in order to equip them with the critical tools that they will need in order to understand the complexity of the digital world and become aware of its risks as well as its benefits. Techniques include blocking bullying behaviour online or creating panic buttons for victims to use when under threat.

### *Asking adults for help*

Poor parental monitoring is consistently associated with a higher risk for young people to be involved in both cyberbullying, whether as perpetrator and/or target. Some students report that they *would* ask their parents for help in dealing with a cyberbullying incident. However, others recommend *not* consulting adults because they fear loss of privileges (for example, removal of mobile phones and their own internet access), and because they consider that adults are not accustomed to cyberspace. Many consider telling a teacher as ineffective, on the grounds that often no action is taken by schools.

### *Involving peers*

Young people are more likely to find it helpful to confide in peers. Peer supporters offer understanding and can express empathy for the victim's situation. They can also have an influence on the bystanders. Cybermentors can offer online support to victims and challenge offensive behaviour when it happens. Peer supporters can heighten awareness by facilitating bystanders to behave proactively when they encounter cyberbullying.

If we are to solve the problem of cyberbullying, we must also understand the networks and social groups where this type of abuse occurs, including the importance that digital worlds play in the emotional and social lives of young people today, and the disturbing fact that cybervictims can be targeted at any time and wherever they are, so increasing their vulnerability.

Zero-tolerance approaches are more likely to criminalise young people and add a burden to the criminal justice system. Interventions that work with peer group relationships and with young people's value systems have a greater likelihood of success. The ethos of the schools where children and young people spend so much of their time is critical. Engagement with school is strongly linked to the development of positive relationships with adults and peers in an environment where care, respect and support are valued and where there is an emphasis on community.

It is important to tackle bullying early before it escalates into something much more serious. This affirms the need for whole-school approaches with a range of systems and interventions in place for addressing all forms of bullying and social exclusion. External controls have their place, but we also need to remember the interpersonal nature of cyberbullying. This suggests that action against cyberbullying should be part of a much wider concern within schools about the creation of a climate where relationships are valued and where conflicts are seen to be resolved in the spirit of justice and fairness.

**Helen Cowie** is emeritus professor in the Faculty of Health and Medical Sciences, University of Surrey

EU Kids Online: <http://www.lse.ac.uk/media@lse/research/EUKidsOnline/Home.aspx>

**Claire and Brian**, two of our guest editors, interviewed two 16 year old boys from Glasgow about their experiences of cyber-bullying.

**THE BOYS** identified the main channels for online bully as social networking sites and online gaming primarily through sites accessed via the Xbox and PSP3. They both had experiences of being a victim of bullying and one had experience of being a perpetrator, and identified a clear link between these:

**"I felt really cheesed off with it (being bullied on-line) cause it just got a bit out of hand. But I sorted it ... I gave it back to him and he kept his mouth shut and apologised."**

The boys explained that if it was just a bit of name calling they were able to ignore it but they found it hard not to retaliate if the bullying got more extreme.

In their experience online bullying involved both people they knew and strangers, but was most common amongst strangers, and was perpetrated by gamers from different countries. The bullying tended to involve nasty comments about family members (particularly their mum or sisters), and football (usually related to Celtic and Rangers). It also involved criticising the way people talk, act or look, with racist abuse common.

In online gaming, the bullying is usually verbal, with comments made through headsets used during games. Some perpetrators used voice distorters, to sound, for instance, like young toddlers. This made the bullying more disturbing and means it's not always possible to tell the age or gender of the bully. That said, they thought that because online gamers tended to be males so were the bullies. Bullying was most likely to occur when the bully had lost a game and was most commonly associated with particular games: Grand Theft Auto 5, Call of Duty and FIFA.

They identified four key reasons why people engaged with cyber-bullying: reputation, difficulties in their own lives, opportunity, and fun.

**"The people that are doing it, it's just to make them look wide, that they're hard guys...to be honest they must be having a hard time in their life that's why they're doing it... they've got a preconceived notion that nobody can see what they're doing so they can get away with it...(and my pal does it) to get people angry and to have a laugh."**



To them, online bullying was a really serious issue and could get really out of hand. They explained there's a lot going on online that "exposes children to things they are not ready for", particularly because gamers don't know the age of those they are engaging with. Because this bullying is usually by strangers, the bully doesn't know about the family background or circumstances of those they are talking to. Comments for some people can be really painful, can be deep and have long-term significance.

**"It all depends on the person because you can say something to one person and it means nothing to them but...it can touch a nerve with another person".**

Neither of the boys had reported online bullying. They questioned the value of reporting it because whilst moderators and gamers can block accounts, it's easy to set up new accounts and resume the bullying. Further, the bullying tends to be verbal and isn't recorded so it's hard to report: "it's one person's word against another's". They suggested introducing a mechanism within the console so gamers can record comments if required.

Another reason for not reporting bullying was that they had retaliated when being bullied. Despite this though, they strongly wanted someone to be watching out for them. They would like to see an online reporting function, 'a cyber-security guard', who was also watching over the lobbies of games (areas where people congregate online to meet up and wait to play a game). The boys acknowledged the difficulties here, given there are thousands of lobbies open at any particular time, but they thought it might be possible to set up alerts for certain key phrases and then for someone to intervene.

The boys had found it hard to talk to anyone about the online bullying. They particularly didn't want to worry their parents or 'let them into the same area', seeing their online world as a very private space, and concerned that if their parents heard what they were saying online they'd get into trouble.

They recommended a virtual button within the game environment which could connect them to someone to talk to. They were aware that a company existed who they could contact about online bullying but were not aware of how to contact them and thought they needed to promote their services more clearly.

The boys felt that adults didn't understand the scale or significance of the issue. They identified that schools could have a key role in raising awareness that cyberbullying is not good to do or receive, and to highlight that there are people you can talk to about it. They also thought that young people themselves have a role in talking about it, reporting it, supporting their friends, and not retaliating when they experience it.

## Concluding comments by Brian Donnelly

### Bullying online is all about relationships – not technology

We must focus on equipping young people with the skills to conduct themselves online in a more respectful manner; the skills to manage these environments safely, and to develop their confidence and abilities to negotiate relationships and problems. This is built on promoting and developing resilience. But we also have to equip parents with the knowledge and understanding about how these sites work; how to make them safe and, most importantly, how to talk to their children about using them.

### 'Cyberbullying' is bullying

It is still about relationships that are not healthy or being managed or role modelled well. It is behaviour done by someone to someone else, it is the 'where' this is taking place that is new. The behaviour appears to be migrating, as children spend more time online, the behaviour they have always exhibited and experienced comes with them. Bullying that happens face to face is still the most prevalent form of bullying: online bullying is very visible and public but it is the private stuff that others do not see that is experienced the most.

It is important to include online bullying in policies and procedures on anti-bullying and not see it as something entirely separate. Our work and international research supports our assertion that you deal effectively with bullying that happened online as part of your whole approach to bullying. Carving it off as something different dilutes the reality of bullying experienced by children and young people.

### The internet is a place, not a thing

For many the internet is a tool that they use for a variety of things, buying, sending messages or research. To most children and young people it is a social space that they spend time in and use to stay in touch with their friends. Like all places children and young people go to, there are risks. Children and young people do not differentiate a great deal between friendships online and in person. Most of their interactions online or using their smart phones is with friends and people they interact with in other areas such as schools or where they live. This is not to say they do not know the difference but it is as natural for your friendships to be evident in both your day to life online and where you live or go to school.

### Communication

The purpose of using smart phones, consoles or laptops is primarily about staying in-touch with friends: this is as important for young people today as it was 40 years ago. They have different means at their disposal but the principle is the same.

### Adult fear and anxiety

This is the biggest hurdle in dealing with cyberbullying. For parents or adults who do not use social media or connect with their friends using the internet, this is a challenging and at times bewildering experience.

**Brian Donnelly is director of Respectme, Scotland's anti bullying service and reflects on bullying at <http://briandrespectme.blogspot.co.uk/>**

**He will publish findings from a major research project into online bullying in Scotland in November 2014.**

# Who's got your back?

Young people talk about who has made a positive difference to their lives by **Charlotte Bozic**

**IN THIS** special issue of Scottish Justice Matters, we wanted young people to answer one simple question: who's got your back? We asked them to think of someone who has gone that one step further to make a positive change to their lives, whether through providing extra support during a challenging time, helping to tackle a tricky school subject or job application or just being there with a smile, joke and a hug.

We wanted to hear about those people who refuse give up on a young person because they were difficult or stubborn, someone who is able to look beyond their job description or family obligation, and make the effort to reach out and be there for a young person.

*"I am looking forward to my future now, where I didn't think I had one."*

The words of Jon, aged 16, resonate strongly. This is a young man who admits he was "running off the rails" with an addict parent and no guidelines. He acknowledges that the path he was on could have led to residential care, or worse. Yet Jon was lucky enough to come under the care of R, a worker with youth service Apex Scotland. With her "open and honest, firm but fair" support, Jon was able to move forward from the dark place he found himself in, and now admits he even enjoys school, a place where previously he "didn't do anything".

Jon was fortunate enough to have someone who was determined to help him turn his situation around. Not all young people are so lucky. Whilst many have a lot of people in their lives, from social workers and residential staff to teachers and family, a young person can still feel alone and unsupported, especially if they are in residential or looked after care. With so many youngsters to look out for, and so little time to give, it simply isn't always possible for professionals to give every child the attention that they need.

Whilst we were obviously interested in reading about young people's experiences, we had a wider purpose in mind. This was to recognise and acknowledge the excellent (and often unsung work) that is being done by people, who, despite juggling busy schedules in and out of work, budget cuts and role changes, still take the time to really connect with a young person in their care.

We also hoped that the stories would highlight the most effective way of working with young people. Could these experiences be incorporated into training and professional development? Is it possible to strive for a more consistent approach, so that the young people in our care come to expect and rely on this? It made sense to ask those who know best: the young people themselves.

A simple survey was devised and distributed to young people across Scotland. Whilst the ideal age range was between 12 and 21, entries were accepted outwith this, and anonymity was given as an option.

The response was overwhelming. Nominations were made for staff from Apex Scotland, Barnado's, Includem, Kibble Education and Care Centre, and South Ayrshire Council. Others nominated their mum, and in one case, their boss.

Some responses were short but conveyed more meaning than an entire page could.

*"She fought for me"* wrote Lisa about her mum, four simple words that say so much more. Many told stories of breaking down barriers, with real gratitude and recognition of the difference a helping hand can make. There was also humour, as Zoe told us:

*"He is amazing and is very funny, and helps change our lives and keep us out of trouble!"*

Several themes shone through, such as respect, trust and compassion.

*"When I found out her life had twists and turns it really shouted out to me why she chooses to help young people in the job she does,"* said Jenny.

Another girl wrote: *"I can tell her everything and I think I trust her"*: not an easy admission for a troubled young people to make.

Here are some of the things that young people told us.

*"I started getting in trouble with the police when I was 14, it started to get really bad! P... told me to think about the things I could lose if I carried on behaving like this! She told me to look at the situations in different ways, working with her reduced the offending a lot not completely but a lot which has made a difference to my relationships with family and friends:-) I don't think I would be in the position I am in now if it wasn't for P."*



"She stuck at me and never gave up on me. She went way past her job stuff and helped me."

"I found myself in a dark place, was either angry or upset. M, my boss, went out of her way to sit with me and talk about and work through the things going through my head. For a long time, nobody wanted to listen but M did, she showed me that not everybody thought I was just another 'bad' one."

"J started working with me at an off-campus building as I didn't want to go to school. In this time she has helped boost my confidence and has helped me get back into school. I am now attending high school and have gone from a part-time to a full-time timetable. My time with J has been fun and helped make a difference"

"He was very helpful. I am grateful for what he did"

"She has been more of a friend than any guardian angel, and is so passionate at helping young people stay on track of their lives in order to make the right choices. She has always been there for me to ask about anything if I needed and I know that she'd happily help anyone in trouble. She needs to be recognised for her amazing efforts and also the fact she is such a generous fun person with hundreds of great qualities!!"

"I thought I knew everything, I was sleeping with different boys and running away from home, drinking at the weekends and getting drunk. I was so low, I really hated myself and I started to self-harm. My mum was a young single parent, we were constantly at each other's throats, I really thought she didn't love me or care about me. When K came along, I just thought she was another worker trying to poke her nose in. She never once asked me any questions I didn't feel uncomfortable to answer, it didn't matter what I did wrong, she always gave me a cuddle. She even phoned my mum to tell how good I was doing and helped me and mum build a relationship back together. If it wasn't for K and my hard work, I wouldn't be at school, my path would have been in prison..."

"S has gave me a lot of advice when I needed it, she's worked on offending work with me to help me realise how stupid all of this was. This has helped me a lot, I took what she said into consideration and now my life has turned around"

As stated earlier in this article, we understand it's a challenge to remain on top of caseloads, let alone take extra time to connect with a young person. However, we intend for this to be a starting point for an open and honest dialogue about improving support for Scotland's young people from which we can move forward together to give young people a better future.

For all the many people out there who are already doing an excellent job, we hope this article will show you that your efforts really are appreciated.

Perhaps the words of Sarah, 16, most powerfully summarise the difference extra help can make:

"Now I have a goal ... to stay on at school, go to college and hopefully end up in a job like K's so I can help young people, just like how K helped me love myself and others."

**Charlotte Bozic** is communications officer for the Centre for Youth and Criminal Justice, University of Strathclyde.

All names have been changed.



# GETTING A JOB

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## Richard Thomson on recruiting young people with convictions

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**THERE IS** an employability mantra: ABC - Any job, Better job, Career! For young people, finding and keeping a job can be difficult and a criminal record marker can be devastating or not, depending on their aspirations, the advice they receive, other barriers to employment and local labour market dynamics.

While many obstacles are overcome by a mixture of effective interventions, good luck and growing up - a criminal record is for life. Well almost, but there is a shortage of accurate advice to jobseekers on what, when, why, where and how to disclose convictions (or not) to get a job and keep it.

The part of the Children's Hearings (Scotland) Act 2011 which concerns how youthful offending is dealt with in Enhanced Disclosure and Protecting Vulnerable Groups (PVG) scheme certificates, is yet to come into force. Until then all offences dealt with by Children's Hearings will potentially result in 'criminal records' for children. The Scottish Child Law Centre has concerns about the way this and other information will appear even after that part of the Act comes into force. Such disclosure may be inconsistent with their right to privacy under Article 8, ECHR. Young people should be encouraged to seek legal advice if the disclosure of Children's Hearing information appears to harm their career prospects.

The Rehabilitation of Offenders Act 1974 has not been amended in Scotland and it allows Scottish employers to consider the relevance of most convictions for much longer than in England and Wales as it stands. For example, a 16 year old who is convicted and fined is currently subject to a 30 month rehabilitation period to disclose their convictions in Scotland but only 6 months in England. The Scottish Government is currently reviewing the 1974 Act but no timescales have been committed to reform.

Understanding this legislative background and Disclosure Scotland's role are key competences for mainstream employability advisers. While Recruit With Conviction provides minimum core competence training for employability advisers, there are clear roles for specialist agencies like Apex Scotland and Access to Industry.

A criminal record declaration can produce unpredictable employer responses so young people must be prepared to disclose and be resilient enough to cope with the consequences.

Identifying what should or shouldn't be disclosed to different employers is complex, and guessing the contrasting and conflicting employer responses to a criminal record disclosure is impossible, so advice must be given positively but with the caveats explained clearly.

Understanding a young person's attributes, attitude and aspirations for work and matching this against the realism of local employer expectations is an art which is developed with experience.

Getting a job, is only the first step towards keeping a job. Matching the right person to the right job, with the right employer at the right time is crucial and a direct relationship between key workers and employers can play a pivotal role.

Recruit With Conviction employer training helps recruiters to understand their own offender stereotype anxiety so that they can be more aware of their personal bias. The training also helps them to understand the legislative background and highlights the opportunities and good practice in widening their recruitment pool.

The process should go further than just policy and procedure. Many public bodies, such as Fife Council, have good practice procedures for the recruitment of people with convictions, but people with convictions often deselect themselves from public sector jobs either through embarrassment of disclosure or a false assumption that they will be barred. Recruiters must be empowered rather than technically authorised to select the right candidate with convictions.

Good employer processes help more people to 'apply with convictions' and promote opportunities to compete at interview by delaying disclosure. This is why the Ban the Box UK campaign is so important.

Like all interventions, there is no silver bullet. Employment is widely accepted to support desistance, health and routes out of poverty but the wider issues are complex and a job can be harmful too unless it's the right job for the right person in the right place with the right employer at the right time.

More research is also needed into the particular challenges of high local unemployment and the disadvantage caused by single summary convictions or specific stigmatising conviction labels such as racial aggravation or sexual.

**Richard Thomson is director of Recruit With Conviction promoting safe, effective and sustainable employment for people with convictions.**

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<http://www.recruitwithconviction.org.uk/>

**Ban the Box:** <http://www.bitc.org.uk/banthebox>

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**BRIAN WAS INVOLVED** in low level offending as a teenager and this has had long-term consequences on his employment prospects. Here he describes his journey towards employment and reflects on situation for other young people.

I got into trouble from 15 years old, it was stupidity. There were difficulties at home and I turned to drink to help me cope. I was charged with vandalism, breach of the peace, breaching bail and resisting arrest. When I was 22 I was sent to prison. I wanted to change but on my release I was living in a hostel and hanging around people with had issues of their own so it was straight back to drinking. After another spell in prison I was determined and this time I got the support I needed, I went to rehab and was introduced to the AA. I started to turn my life around but I was suffering from anxiety and was on incapacity benefit for a couple of years. I wanted to stay on the sick but I was eventually declared fit to work. I'm five years sober now and I felt I was able to work about three years in.

I was scared of going on job seekers allowances, panicking about getting sanctioned and being forced to look for work. It was hard but I got support to do my CV and apply for jobs. When I got an interview sometimes I'd get a good feeling but then I'd declare my unspent conviction and the interview would be terminated. This must have happened seven or eight times last year. They never asked what my conviction was for, just rejected me outright. I was willing to put the work in but there was no chance. It knocks your confidence, you kid on you're not bothered but you are.

I also volunteered in a charity shop, did football coaching though street soccer, was accepted on a Venture Trust course and went to France to engage in promotional activities through Exchange Scotland. Once I started volunteering one thing led to the next. At street soccer one of the players had got a job through Social Bite and so I contacted them. Social Bite didn't ask about my past.

They gave me a three day work trial as a kitchen porter and have kept me on. I was so nervous at first, it's the first job I've ever had.

I've never got a job when asked to declare my convictions. Because my sentence was seven months I have to declare for 10 years. I've got another three years to go. If my sentence was one month less I wouldn't need to declare for so long and because my offending is relatively minor 10 years seems like a long time. It's not right to judge people forever for making mistakes. People should be forgiven if they're trying to change.

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**They never asked what my conviction was for, just rejected me outright. I was willing to put the work in but there was no chance**

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I don't think employers should discriminate for those with minor offences but offer a trial period, like Social Bite. It doesn't feel right to be asked about convictions on an application form when this doesn't take account of the type or level of offence. For minor offences like mine I think employers should change their policies. For those who have committed more serious crimes, like homicide there's no chance, other than perhaps at Social Bite because they don't ask. Young people need to speak out about their experiences too because I'm not sure people realise how bad it is.

Its hard to say but things might have been different for me if I'd had an apprenticeship when I was younger, if I'd had something to focus on rather than drinking. When I was at school I had a one week trial at a painters and decorators which didn't come to anything but if it had I think it could have helped. There's nothing out there for young people like this hence they end up committing offences, it's not changed since I was young.

As for the future, I'm starting college this year to do an outdoor education qualification. I'd like to eventually be able to work with young people who are in a similar situation to the one I was in. Social Bite have agreed to offer me some hours when I go to college. I'm looking forward to it.

REFERENCES

VE BELOW THE NAMES OF THREE

NAME

APPLICATION FOR EMPLOYMENT

PRE-EMPLOYMENT EQUAL OPPORTUNITIES

DATE

STATE

STATE

CITY

CITY

REFERRED BY

YOU CAN START

PERSONAL INFORMATION

NAME (LAST NAME FIRST)

ADDRESS

ADDRESS



Brian Rogers in Social Bite, Glasgow.

**SOCIAL BITE** is a social enterprise running a small chain of sandwich shops. It started with one shop in Edinburgh and has just opened a fourth shop in Glasgow: all profits go to charities. Social Bite has a commitment to ensure at least one in four of their workforce have experienced homelessness. They currently employ 26 people, 12 of who have been homeless and most of these 12 people have never had a job before.

The profile of those who have experienced homelessness includes people who have criminal convictions, have been in and out of prison and who have struggled with addiction.

Social Bite recruits by placing adverts and through referrals from current staff. Pete was the first person whom they employed who had experienced homelessness, and they asked him whether he knew anyone else with this experience who would appreciate an opportunity to work with them, and so on. This is the way that Brian got his first paid job (see previous article), following a referral from his friend Danny. Once people are referred people are given a chance at working and they see how they do. Josh thinks one reason this approach works well is that people don't want to let their referrer down.

Guest editors **Brian** and **Claire** interviewed Josh Littlejohn, co-founder with Alice Thompson, of Social Bite, (and Brian's boss), about their approach to employing people with convictions.

Employees are not asked about their convictions before being given a chance to work, and Josh doesn't think they'd be put off recruiting people with serious convictions, explaining that:

"You can only really judge people in the context of the lives they've led and the backgrounds they've had and the hand they've been dealt from the outset".

Josh argues that their experience of employing people with convictions has been positive, and seeing people thrive and gain confidence is the most rewarding aspect of the job. There were some positives for employers too. For instance, a standard sandwich shop would employ a high proportion of students and others for whom it probably wouldn't be their career aspiration and so who would quit given another opportunity. In contrast if you employ someone from a background of homelessness, whilst there are challenges, if it works out you have an employee that really values the opportunity and you have a really loyal long-term member of staff.

There have been challenges in recruiting people with troubled backgrounds. For instance, they had a member of staff stealing from Social Bite for over a year. Whilst the gut reaction was to fire him, they first talked to him and learned that, since he was 16, he'd had a terrible gambling addiction. They also found out about his horrific childhood and how this contributed to his addictive behaviour. Josh explained that when you understand people's lives it allows you to be more compassionate. They dealt with this situation by suspending him from work and supporting him to go to Gamblers Anonymous meetings, and following regular attendance he's just started back at work. The core ethos expressed by Josh was "not to judge the individual but cast judgment on society that creates the structures that lead individuals to situations of crime ... they don't come out of the womb as criminals so we're pushing them in that direction".

**You can only really judge people in the context of the lives they've led and the backgrounds they've had and the hand they've been dealt from the outset**

Social Bite have recognised that given their difficulties they could do more to support their workforce and they needed to accept that if you employ people with troubled backgrounds you need to allow them to screw up occasionally. Consequently, Social Bite have just applied for funding from the Big Lottery to employ someone to support their employees with practical issues (such as getting bank accounts, ID and housing), mental health issues and to provide addictions support.

Josh observed that in general people particularly value the routine, having work colleagues, friends, responsibilities and having something to do. However, clearly what it means to have a job to those who've had a troubled background is an individual thing. Sunny works at the kitchen in Social Bite and is a former heroin addict, still takes methadone and is on a curfew, so would be a classic case of someone who couldn't hold down a job full time. However, he does and is one of the hardest working employees. For Sunny having a job and being clean has meant his ex-partner has allowed him to start seeing his son for the first time, and for him this is the most important reward of all.



[www.social-bite.co.uk](http://www.social-bite.co.uk)



# school exclusion

## Karen Pryde outlines what needs to be done

'Throughout my first and second year of high school, I was constantly in trouble, being disciplined for classroom disruption, swearing, skiving, missing detentions, vandalism, fighting and disrupting the community during school time – including shoplifting - and being returned by police. Outside of school, life was just as chaotic as my parents had an up/down relationship, and I was never very sure whether they were together or not, friendships were never that real, money was tight as Dad was always in and out of work, Dad smoked hash and suffered depression and Mum and Dad would often drink in the house or if Mum went out with friends Dad would be so paranoid, it led to arguments that lasted for weeks.'

'Getting excluded wasn't a big deal for me as my Dad used to say he 'was just like me when he was my age' and he turned out alright. He also knew some of the teachers I didn't get on with and could understand why I reacted in certain ways towards them as they were like that when he attended school and clearly hadn't changed. My parents used to get annoyed with me for having to attend meetings as it was embarrassing and Mum had to get time off work, but always went. I never used to do any school work when I was excluded. I either didn't get any sent home or, just didn't do it. I got to have long lies and watch telly, but I had to clean up the kitchen. I still kept in touch with friends through text and Facebook so never felt I missed out'

**(Katie, former pupil, Fife).**

'If we were excluded we would sit at home, lie in our beds, play the computer, watch TV, hang about the street and cause trouble and not do school work.'

**(Pupil, Focus Group, Fife).**

**ALTHOUGH** overall school exclusion is reducing in Scotland, it remains the ultimate sanction and power held by schools to punish unacceptable behaviour. Each school makes a return to their local authority detailing incidences, reasons and number of pupils involved in exclusion, and each school is autonomous in their use of the sanction. It is this autonomy that makes it very difficult to evidence control and give clarity to 'what works?' in terms of tackling the evidenced impact of exclusion.

### Impact

School exclusion creates a distance between the choice leading to the behaviour punished, the action itself and its consequences. In essence it removes the responsibility for the act and replaces it with feelings and emotions that relate to the exclusion, positive or negative, which can make return to school for a young person more difficult.

Parents also express concern at the lack, or amount, of education provided when a pupil is excluded, which impacts on opportunity to gain qualifications. Pupils feel angry and worthless and the effect on parents can lead to illness and loss of employment, whilst feeling a sense of failure that they didn't do enough to help their child's educational problems.

Impact can also include wider family stress, depression, rejection, low self esteem, breakdown, removal from home into care, difficulty finding and sustaining employment, difficulties forming and maintaining relationships, self harm, and isolation.

As McAra and McVie have found in their Edinburgh based research "school exclusion is a key moment impacting adversely on subsequent conviction trajectories" (McAra and McVie, 2010 and also on page 21 of this issue). It is reasonable to assume that the pupil, further alienated by their experience, and having spent time in unstructured and unsupervised environments, may become involved in crime and, therefore, incur more costs to the public purse.

Calculating the cost of public services is important. Comparing the costs of alternative forms of education, and adding the costs of the range of services used, provides important information to policy makers, informing debate about ways of managing exclusion, and help decisions to be made about alternatives to exclusion and the best time for agencies to intervene in a pupil's education.

## Strategies and effective intervention

In the spirit of McAra and McVie's identification of an "urgent need to develop more imaginative ways of retaining challenging children within mainstream provision" (McAra and McVie, 2010), it is important to invest in every area for creative and quality solutions. There is no 'quick fix' when working with young people with challenging behaviours that would normally result in exclusion. Local authorities should take a holistic view of services contracted and staff appointed for such work, to take into account attributes and qualities not generally acknowledged in 'education specific' job descriptions. Flexibility in relation to the minimum requirements for posts which raises issues regarding pay for 'non traditional' applicants is also needed. There is a danger that staff carrying out this challenging work are penalised through lower pay because of their lack of formal qualifications.

Already there is patchy provision offering this and much more across Scotland. For example, Apex Inclusion now works in three local authorities. In 2013-14 the service received 1104 referrals and worked with 604 individual young people across its 8 locations, including partnership working with Includem and SkillsForce beginning in October 2013. In terms of a return on financial investment/reduction in public spend, referrals and numbers of young people speak for themselves relative to the cost of an Apex provision, whereby some pupils are supported for 30 periods per week for extended periods of time to keep them safe and engaged within education; equating to as little as 30p per day in some cases. However the emotional, educational and social investment far outweighs cost with young people commenting on increased confidence, self esteem, morality, decision making, positive choices, educational attainment, peer, family and professional relationships.

'If we didn't have an Inclusion Unit in our school, we would have been excluded or expelled by now – every school should have one.'

**(Chloe, former pupil – Fife).**

## Changing the landscape of exclusion

'I didn't enjoy being excluded all the time. It was alright at first, but mud sticks and people began to expect bad things of me, including my parents, family and friends. I've had to take some things people have said and done to me on the chin, but I created that. I made those choices. I might not have been dealt the best hand in life, but that can't be my excuse for things – I'm better than that; I'm better than those who have treated me bad – I want a happy life and it's only me who can give me that.'

**(Katie, former pupil – Fife).**

Success isn't creating carbon copies of young people to act in the same way or engineering robotic attributes, it is about synthesising confidence, maturity, morality, responsibility and decision making to make young people feel like all round contributors and respected people with a valuable contribution to make: achieving their potential for contentment. It's about working and investing in something positive, as opposed to avoidance, guilt, sanction, aggression: not living for the next high, but living for contentment, and breeding a sense of accomplishment which helps people overcome adversity.

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## It is clear that exclusion is not a cure, but nor is overlooking unacceptable behaviour

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It is important to note, this article does not blame schools or teachers for exclusion and exclusion is necessary in some cases and schools should retain the right to do so. These patterns reflect a much wider lack of knowledge about how we work effectively with these groups of young people and a lack of systems for solving these problems within schools. It is clear that exclusion is not a cure, but nor is overlooking unacceptable behaviour. We know how to educate young people without relying on the ineffective, harmful practice of exclusion on the pupils who often have the most to gain from staying in school.

## What we need to do

1. Partner with schools and local authorities to conduct longitudinal studies on the impact of frequent out-of-school exclusions, and document promising practices to target funds for the implementation of systemic improvements in approaches to school exclusion.
2. Offer school based alternatives to exclusion to retain pupils in a familiar learning environment whereby their behaviour can be addressed and wider problems can be explored in a safe, controlled manner.
3. Encourage the use of research-based approaches, such as restorative practices to restore harm and victim empathy perspectives.
4. Appointment or use of key worker to offer consistent, trusting relationship to young person. This does not mean telling the young person what they want to hear, but offering responsible honest advice to inform responsible decision making; leading to positive choices.
5. Invest in accurate reporting and use information gathered to highlight connections between effective discipline and improved educational and personal outcomes.

**Karen Pryde is school services development officer for Apex Scotland.**

For more details about the work of Apex Scotland Inclusion see [www.apexscotland.org.uk/apex-services/apex-inclusion/](http://www.apexscotland.org.uk/apex-services/apex-inclusion/)

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McAra, L and McVie, S. (2010) 'Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime' *Criminology and Criminal Justice*, May 2010; vol. 10, 2: pp. 179-209.

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# MAXIMUM DIVERSION MINIMUM INTERVENTION

An evidence base for Kilbrandon by **Lesley McAra** and **Susan McVie**

**THE YEAR 2014** marks the fiftieth anniversary of the publication of the Kilbrandon Report. This foundational document has given a distinctly Scottish imprimatur to our institutions of juvenile justice, involving active participation of the community (via the children's panel) and predicated on a social educational model of care. Kilbrandon posited that the underlying situation of children who offended was no different from those in need of care and protection: both sets were affected by problems in the normal upbringing process. A core aim was to avoid criminalisation and stigmatisation, by ensuring that interventions were put in place at an early stage and in a parsimonious way (based on the principle of minimal necessary intervention to ensure the child's well-being).

**The cultural practices of key agencies that come within the ambit of juvenile justice, result in the recycling of a group of young people who might readily be termed the 'usual suspects'**

In this article we set out key findings from the Edinburgh Study of Youth Transitions and Crime which are strongly supportive of the Kilbrandon ethos. However, we argue that the children's hearing system, as implemented, does not always live up to the original Kilbrandon aims. The cultural practices of key agencies that come within the ambit of juvenile justice, result in the recycling of a group of young people who might readily be termed the 'usual suspects'. Being caught has deleterious consequences for youngsters, serving to diminish rather than enhance their life-chances. We argue that we best celebrate Kilbrandon's half century by re-embracing a maximum diversion, minimum intervention approach to children who come into conflict with the law.

## **The Edinburgh Study**

The Edinburgh Study is a longitudinal programme of research on pathways into and out of offending for a cohort of around 4,300 young people who started secondary school in Edinburgh in 1998. We have multiple data sources including self-report questionnaires, semi-structured interviews at ages 13 and 18, data from official records such as schools, social work, children's hearings, and criminal conviction data. Finally we have built a geographic information system based on police recorded crime and census data to enable us to understand the dynamics of the neighbourhoods in which young people live.

## **Findings supportive of Kilbrandon**

Our findings show that offending is a normal part of the growing up process, but that those who become involved in a sustained pattern of serious and persistent offending are the most vulnerable groups of young people in society as a whole. We have found a strong and consistent relationship between needs and deeds.

An overwhelming majority (95%) of the cohort admitted to ever being involved in one or more of the offending behaviours included in the Study over the first six waves of data collection. However, most offending was petty in nature (such as minor forms of graffiti, stealing money from home), with only 28% of the cohort admitting to involvement in violence at the peak age of offending.



Our analysis has shown that those involved in violence were significantly more likely than others to be: victims of crime and adult harassment; engaged in self-harming behaviours; exhibiting a range of problematic health risk behaviours including drug use, disordered patterns of eating, symptoms of depression and early sexualised behaviour; having experience of family crises or breakup; and coming from a socially deprived background (McAra and McVie, 2010). The intensity of these adversities meant that involvement in offending became the principal means of attaining a sense of self-esteem and identity for these young people (McAra and McVie, 2012).

Importantly our findings show that only a very small proportion of those involved in serious offending were known to juvenile justice agencies (for example 76% of those involved in violence at age 17 were unknown to social work or the children's hearing system). The vast majority of young people desisted from offending without any form of agency intervention: 80% of those followed up at age 24 who reported early involvement in violence by age 12 but who had no agency contact, stopped offending by their early twenties, (McAra, 2014).

### The usual suspects

Turning to our findings which highlight implementation problems, here we show the ways in which the young people who were caught for offending became subject to a repeat cycle of intervention (no matter whether their offending had diminished in seriousness or persistence), forms of intervention which were damaging in the longer term.

Selection effects operated at three crucial decision-making stages of the juvenile justice process: police decisions to charge; to refer a case to the Reporter; and Reporter decisions to bring a case to a hearing (McAra and McVie, 2010). The key factor driving these selection effects was 'previous form'. For example, youngsters who had been charged by the police in previous years were 7 times more likely to be charged by the police at age 15 even when controlling for volume of police contact in the current year and involvement in serious offending. Those who had a history of early referral to a hearing were almost three times as likely to be brought to a hearing at age 15 than those referred to the Reporter with no such history, even when controlling for volume of needs and volume of charges.

Young people were aware of these labelling processes and the stigmatising effect that they could have, reporting in interview that troublemaker status arose because of police perception of the reputation of the areas in which they hung out, their family and their appearance:

"Well the police tend to check up on us a lot ... for no reason ... they just drive in and look at who's there ... just because they think things happen there". (Boy aged 13)

"... but if I do get stopped or anything like that, sometimes my name, 'cause like my dad and my uncle have been in trouble and stuff like that. So I can get a bit of hassle." (Boy aged 18)

"My friends had a car, and we got pulled at the top of road. Five minutes later we got pulled half way down the road [by different officers]. Five minutes later got pulled at the bottom of the road [by a further set of police officers]. [The police think] they're young, they're wearing hats, they're in an old banging car, oh that car's stolen'. (Boy aged 18)

Results revealed that the deeper a young person penetrated the system the more likely their pattern of desistance from offending was inhibited (McAra and McVie, 2010). Moreover, being caught and processed manifested itself in repeated and more intensive forms of intervention. For example, a high proportion (56%) of those who had been referred to the Reporter on offence grounds at some point had a conviction in the adult criminal justice system by age 22. Youngsters who made the transition into adult criminal justice system were generally assessed by agencies as having a high volume of needs at the point of transition. Such youngsters were up-tariffed relatively quickly, with disproportionate numbers being placed in custody by their 19<sup>th</sup> birthdays (19% as contrasted with just 3% of those with convictions who had no hearings history) (McAra and McVie, 2010). Of those with experience of custody by age 19, 70% were sentenced to a further period of custody by age 22, with a very high percentage having been excluded from school by age 12 and experience of multiple and complex modes of labelling and stigmatisation from a young age.

Whilst acknowledging that there is always a need to maintain a secure estate for the very small number of young people who are a danger to others, our findings indicate that, for the vast majority of young people who become involved in offending, maximum diversion and minimal intervention is the most effective course of action. The intersection of needs and deeds suggests that targeted universal services for communities beset by multiple forms of adversity would have a strong pay-off in terms of crime reduction as would policies predicated on the sustaining and enhancing educational inclusion.

The Kilbrandon report stated: "If society's present concern is to find practical expression in a more discriminating machinery for intervention, it must be recognised that society's own responsibilities toward the children concerned will be correspondingly increased, and that this will make commensurate demands on the nations resources". If we wish to build a society in which all of our young people can flourish, then it behoves us to tackle persistent institutional cultural practices which undermine the capacity of the children's hearing system to deliver justice, to divert resources into building cohesive communities which nurture young people, and to place social justice not criminal justice at the heart of our ambition.

**Lesley McAra is chair of penology and Susan McVie is professor of quantitative criminology at Edinburgh University.**

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# Children and young people experiencing domestic abuse

**Anni Donaldson** asks “are we getting it right”?

**HESTER** famously described the challenges of protecting children experiencing domestic abuse in the interstices of three, often conflicting, professional ‘planets’: domestic abuse, children protection and child contact (Hester 2012). The case she makes is clear. The gendered nature of domestic abuse, the abuser’s pattern of coercive control and the best interests of children living with domestic abuse as understood on the ‘domestic abuse planet’ are often distinctly at odds with the professional cultures and priorities of the other two. These key differences, backed by a substantial body of evidence from research and practice, can result in inappropriate and unsafe professional practice, the diversion of attention away from the perpetrator and re-victimisation of the non-abusing parent, usually the mother, resulting in poor outcomes for the very children systems are designed to protect. Hester acknowledges that professional cultures, in England and Wales, still appear unwilling to recognise the key issues in domestic abuse cases. Are things any different in Scotland?

## Domestic abuse policy in Scotland

The Scottish Government acknowledges that domestic abuse is a gendered crime (Scottish Government 2014). Domestic abuse is priority business for Police Scotland with more than 60,000 incidents reported in 2012-13, accounting for 15% of all violent crime and 20% of police time. Over 81% of victims in these incidents are women. Eleven women were murdered by a partner or ex-partner in Scotland in that year (Scottish Government, 2013).

Significant numbers of children are living with domestic abuse in what constitutes a ‘widespread, serious and chronic social problem’ (Humphreys et al 2008). Domestic abuse is still largely under-reported and while there is no national incidence or prevalence data for Scotland on the numbers of children and young people living with domestic abuse, studies indicate that the problem is also widespread here. Across Scotland, children living with domestic abuse are over-represented in referrals to children and family social work teams, represent

up to two thirds of cases seen at child protection conferences and comprise a significant proportion of those referred to the Children’s Hearings system. Domestic abuse is also a common factor in the lives of many looked after and accommodated children.

## Children and young people experiencing domestic abuse

Scotland has made great progress in championing children’s rights since devolution. For years young victims and survivors of domestic abuse, and their advocates, have called for the impact of domestic abuse on children and young people to be recognised in law, policy, services and professional practice. Campaigns such as Voice against Violence have ensured that young survivors’ voices were finally heard at the heart of policy making. Innovations have prioritised the need to protect children from the impact of living with domestic abuse and to have their voices and opinions heard in decisions regarding their best and future interests.

The combined effects of the Family Law (Scotland) Act of 2006, the National Domestic Abuse Delivery Plan for Children and Young People 2008, the Children and Young People (Scotland) Act 2014, the Children’s Hearing (Scotland) Act 2011 and 2014 and revised National Child Protection Guidance 2014, now ensure that domestic abuse is considered in all decision making by child protection specialists, family courts and Children’s Panels. To its credit, the Scottish Government has also put its money where its policy is by investing £34.5m in tackling violence against women overall during the period 2012-2015. With a strong focus on the co-ordination of community responses, services for children and young people also benefited from specialist provision including CEDAR (Children Experiencing Domestic Abuse Recovery), Women’s Aid Children’s Services and ASSIST (Advocates, Safety, Support Information Services Together) Children’s Advocacy Services.



Scotland's 'domestic abuse planet' is beginning to look like the United Nations Convention for the Rights of the Child in action. However, the grim realities of domestic abuse and its impact on too many Scottish children persist. Crucially, for those who regard domestic abuse as gender based, there are two main challenges: keeping children's perspectives to the fore and demonstrating that the focus of all interventions should remain firmly on the domestic abuse perpetrator as a parent or someone with significant involvement in the child's upbringing.

### **Child protection and domestic abuse**

Child protection in Scotland is rightly concerned with the best interests of the child. However, its traditionally gendered standpoint still places responsibility for the protection of the child with the mother, irrespective of the source of harm. By focusing on a mother's 'failure to protect' in the context of domestic abuse, the system fails to recognise that there is an adult *and* a child victim. For children and young people, the impact of domestic abuse can be profound both physically and emotionally and vary according to their age and gender. It is most positively influenced by the quality of their relationships with their mother with available support from friends, family members and others and, most importantly, to the frequency, form and length of exposure to violence in the home.

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**For children and young people, the impact of domestic abuse can be profound both physically and emotionally and vary according to their age and gender**

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Coercive control can isolate the family and undermine or rupture the mother-child bond. Recent research by Katz and others shows that many mothers and children devise effective protective strategies, support each others' recovery and are excellent judges of what is best for both (Katz 2014). It is therefore in the child's best interests, wherever possible, for their mother to be protected too and for the strengths in their relationship to be preserved. The child protection system's own 'failure to protect' *both* victims may itself constitute service-generated risks by failing to hold the abuser to account, prolonging the impact of the abuse, inhibiting recovery and reducing mothers and children's chances of living a safe, healthy and fulfilling life.

### **Child contact**

The messages from children and young people experiencing domestic abuse are clear. They want the abuse to stop, for someone to listen to their concerns, to be believed and taken seriously. Their perspectives are crucial in post-separation contact disputes as the family court arena can provide a vehicle for abusers to maintain control over their estranged family. However, the child contact system regards even separated parents as a unit, that ongoing contact with both is in the best interest of the child and does not regard a history of domestic abuse as a barrier to a father's chances of gaining regular contact.

The provisions of the Family Law (Scotland) Act 2006 give children the right to have their views taken into account in contact disputes and to instruct a solicitor. Mackay's research into the working of the Act found that the majority of children do not have their views taken into account during such disputes. In almost half of all contact cases surveyed there were allegations of domestic abuse. It appears that for many children, their wishes not to have contact with an abusive parent were infrequently considered by court decision-makers (Mackay 2013).

The cross-cutting nature of domestic abuse presents a challenge to society's views regarding gender roles, parenting and to professional cultures. Scotland has made substantial progress in ensuring children's rights are embedded in law and policy, and is recognised for its progressive strategic approach to both defining and preventing all forms of gender based violence. The needs of this vulnerable group have been successfully publicised and provided a focus for some innovative policy and practice developments. However, there is still a way to go before such innovations become fully integrated across those sectors concerned with children.

Until child protection policy and practice recognises that there are two victims, families will continue to be ill-served by the system. Until court personnel in contact disputes consistently fulfil their obligations under the law to take children's views seriously and act upon them, harm may continue during contact visits. Children and young people have provided practitioners with the best evidence to support continued change. With young people's rights now firmly enshrined in Scottish law and policy, advocates are optimistic that the voices of children and young people can no longer be ignored by those making decisions about their future.

**Anni Donaldson is a journalist, research fellow in the School of Social Work and Social Policy at Strathclyde University, West Dunbartonshire lead officer for Violence Against Women, and Chair of the National Violence Against Women Network.**

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# BEYOND RECONVICTIONS

**Catherine Bisset** on developing an approach to evaluating interventions to reduce reoffending

**FACED** with a number of challenges relating to measuring the impact of interventions on complex outcomes, Justice analysts in the Scottish Government have developed a 4-step approach to evaluating criminal justice interventions based on embedding evidence-informed practice and using logic models.

## Reducing reoffending

Reducing reoffending in adults isn't easy. The research evidence tells us that long lasting social change will only be achieved by a collaborative effort by justice agencies, holistic specialist interventions, universal services and supportive communities who are prepared to invest in sustained, high quality support for people who offend. It may take years to see a real and lasting change to society: 'invest now, save later' is the recurring theme that runs though the international literature on reducing crime and reoffending.

On the bright side, one thing is clear: there are many people and organisations in Scotland determined to make a difference. Despite the cynicism of the national press and considerable doubts by hard-liners about the effectiveness of rehabilitation, there are countless individuals and organisations in Scotland who are trying to change lives, even when faced with shrinking budgets. Our service landscape is peppered with a proliferation of small voluntary organisations, public sector bodies, partnerships and individuals who work with people with complex needs. There are almost as many funding organisations who need to know if their social investments have been worthwhile.

## Evaluation must have a purpose

If we want to improve services and increase accountability in a world of ever decreasing budgets, funders need to base their decisions on robust evaluations that can discriminate between a strong and a poor service. To achieve this, we need a way of evaluating services that fits Scotland's service landscape, is rigorous, transparent, doable and most of all *useful* for those who are delivering and investing in services. Let's face it, if evaluation isn't seen to improve what people do, it's little more than a pointless paper exercise.

## The problem with reconviction rates as a measure of performance

For a long time now, we've used reconviction rates as a proxy for reoffending. It's not surprising, then, to discover that even the tiniest of services still feel under considerable pressure to 'prove' they have reduced reconviction rates (sometimes years after users have left the service); and if they have, how much money they've saved in real terms, not least because funders ask them to.

But here's the problem. If changing the behaviour of people who offend is hard, then measuring whether you've done it is arguably even harder. This isn't great news, but it's not surprising to those who work in this field.

As most researchers and statisticians know, working out if a policy, service or intervention has made an impact on long term outcomes is plagued with technical problems such as statistical significance, selection bias, and lack of robust control groups. This means that even if an intervention *appears* to have had an impact on reoffending, this may or may not be the case. Often interventions bemoan the lack of time to collect long term reconvictions data for their users but it's often the absence of a large comparison group and appropriate statistical analysis which hinders impact analysis.

## Is it fundamentally wrong to ask a single service or intervention to 'prove' they have reduced reoffending?

### Measure contribution not attribution?

While analysts were grappling with how we address these challenges, a more fundamental principle occurred to us. Is it fundamentally wrong to ask a single service or intervention to 'prove' they have reduced reoffending? After all didn't it state in the first paragraph of this article that we'll only make a long term difference to complex outcomes if we work together using multi-level interventions? For example, should a throughcare or mentoring service be penalised for not reducing reoffending when another key service drops the ball beyond its control? If some things that are important to reducing reoffending are out of our hands, then shouldn't we be asking how individual services are *contributing* to reducing reoffending rather than holding them each to account for actually reducing reoffending?

### The four-step approach

So what do we do about all this? Justice analysts had to discover another way of measuring relative contribution of a service to achieving longer term outcomes, in this case reducing reoffending. The most worthwhile aspect of this journey has been speaking to service providers who highlighted very real challenges to evaluating their services in practice.

With all this in mind, we came up with a four-step approach to evaluation which is has now been published in an accessible form (PowerPoint) and is available on the Scottish Government website. The guidance includes a range of subject-relevant resources, example logic models, a summary of the international literature on 'what works' to reduce reoffending and desistance, and worked examples of a data collection framework and an evaluation report structure.

**These are the four key steps:**

### **STEP 1: Demonstrate that quality is built into the design from the start.**

Understand what the wider evidence-base says 'works' to reduce reoffending and encourage desistance from crime. Show clearly and specifically how the evidence has informed the outcomes and been embedded into the content of the service. Evidence-based services are more likely to be effective than services not grounded in evidence, so using the evidence should improve the quality of services from the outset. Funders as well as interventions should know what the evidence base says.

### **STEP 2: How will the service contribute to long term outcomes?**

Show explicitly how your service's activities will contribute to short, medium and long term outcomes using a graphic called a logic model. Logic models may sound dull, but they are attractive because we use them every day. If you've ever asked yourself 'what am I trying to do, how am going to do it and have I succeeded', you are using a logic model.

### **STEP 3: Use the logic model as a guide to collect data.**

This is often the most challenging step. Collecting logic model data is arduous, but it's worth investing in. Once you have the systems in place, they should never have to be radically changed and services can produce comprehensive information about their users' journey at any point.

### **STEP 4: Evaluate the service based on the logic model**

Use the data (both quantitative and qualitative) you have collected to answer key logic model questions. Was there enough money to set up the activities? Were activities delivered as intended? How many users achieved outcomes /made progress?

#### **Is it useful?**

The approach seems to have passed the 'usefulness' test to some degree. Steps 1 and 2 have already been used as criteria by funders to strengthen how they commission services and for their own strategic planning. Word on the street also suggests that following the staged logic model allows funders to monitor and review how services are developing which encourages more collaboration between funder and service provider. Another benefit is that the complexity of the 4-steps can be adjusted proportionately depending on the size and cost of the service. This is important for smaller services with limited resources.

The provision of evidence summaries seems to have promoted a shared understanding of the evidence-base, debunking some widely-held myths and assumptions, and many service providers have found logic modelling especially useful for designing outcome-focused services. Logic models have given service providers the flexibility to try and achieve a wider range of intermediate outcomes that are associated with desistance from crime, but are more closely related to service goals than reducing reoffending, for example, a reduction in drug use or better family relationships.

#### **Next steps towards implementation**

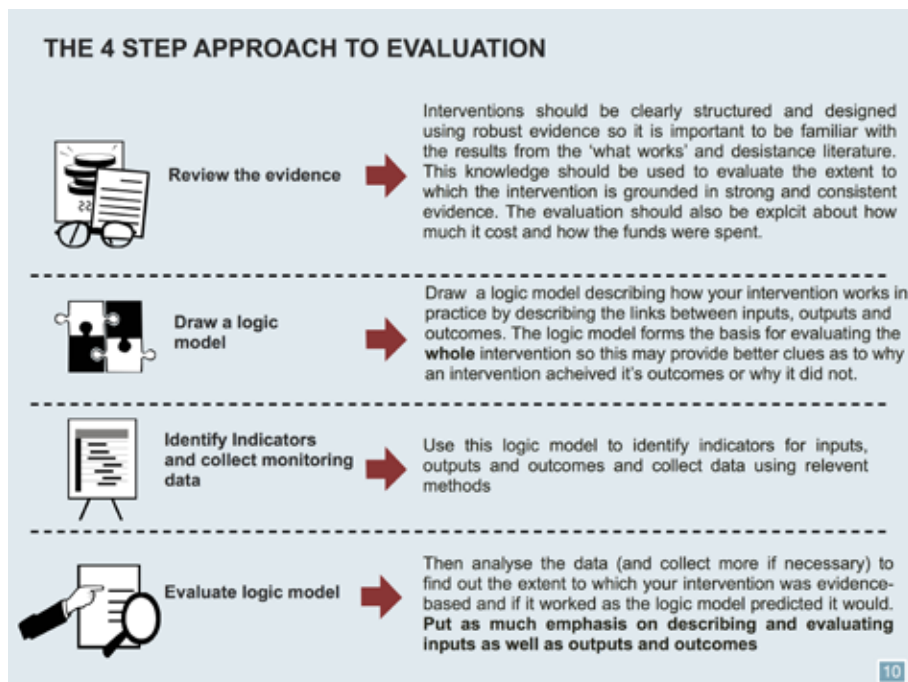
There are still issues to iron out of course, especially with data collection. Many interventions need to increase capacity and skills and adapt data capture systems. These must be addressed so service providers and research contractors feel confident to conduct this type of evaluation.

Honesty and trust are other thorny issues, and are often the big white elephant in the room. If evaluations are to improve services, funders and service providers must be able to openly discuss problems as well as successes so they can work together to make services better. Although reducing reoffending at a national level requires us to work together, the fiercely competitive procurement market may be a barrier to success which may suggest that commissioning 'cooperation' via partnerships would be a model that better fits the evidence of what promotes desistance. It is also crucial to create a climate where funders and services see less than perfect evaluation results as an opportunity to work collaboratively to make services more effective, and this may be the real challenge.

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The Reducing Reoffending Evaluation Pack can be downloaded from:

<http://www.scotland.gov.uk/Topics/Justice/justicestrategy/programmes/reducing-reoffending2/Research>



# RESPONDING TO ARMED FORCES VETERANS IN TROUBLE



**Gerard McEneaney**

**IN 2010** Angela Constance MSP said this in the Scottish Parliament:

“Men and women from throughout Scotland who serve in the armed forces make huge sacrifices on behalf of all of us. [...] To do the best by our troops, we need honestly to acknowledge the trauma of active combat and the personal cost for some in terms of physical and mental health, substance misuse, relationship problems and resettling into civilian life, all of which can be the root cause of offending by veterans. If we are to do the right thing by veterans whose front-line experience relates directly or indirectly to their offending behaviour, as with all offenders we need to know who they are, where they are and what works.” (Scottish Parliament Official Report 22.4.10).

A report by the Westminster Cross Party Defence Select Committee published in October 2014, referring to research by the King's Centre for Military Health Research, states that “a pre-Service history of violence, younger age and lower rank were the strongest risk factors for violent offending. Men who were deployed to Iraq or Afghanistan with direct combat exposure were 53 per cent more likely to commit a violent offence than men who served in a non-combat role on operations. Witnessing traumatic events on deployment also increased the risk of violent offending. Alcohol misuse, PTSD, and high levels of self-reported aggressive behaviour on return from deployment were also found to be strong predictors of subsequent violent offending”.

There are around 400,000 veterans in Scotland (Keith Brown MSP, Scottish Parliament Official Report 14.1.14), but getting accurate figures for the number of veterans in the criminal justice system is difficult due in part to the unreliability of self reporting. Men and women who have served in Her Majesty's Forces take great pride in their service and feel a life long loyalty to their regiment. Many can feel that they have let their regiment down if they are in prison or have a community sentence. There is a clear disparity between the official figures and the anecdotal qualitative data regarding the extent of the problem especially around those involved with the community justice rather than the prison system and this remains a significant impediment to evidence based approaches.

There is little doubt that there has been a lot of activity in Scotland in recent years to support this particular client group which is in addition to a whole plethora of excellent support services for ex service-men and women delivered through the ex-Service charity sector.

In 2010, in response to growing interest in veterans in the criminal justice system, especially those receiving custodial sentences, the Scottish Veterans Prison In-Reach Group (SVPIRG) was established. This group is made up of representatives from the Scottish Prison Service (SPS) staff and third sector representation such as Poppyscotland, to promote the interests and welfare of ex-Service personnel in custody. It aims to ensure that ex-Service prisoners benefit from the full range of services and interventions provided by SPS and partner agencies.



A Veteran in Custody Support Officer (VICSO) has been established in each Scottish prison, including the privately managed Addiewell and Kilmarnock, to co-ordinate activities and services. Veterans groups are encouraged to 'reach in' to ex-Service personnel to appraise them of the services and assistance they can provide to them and their families, while serving a custodial sentence and also, equally importantly, on release back into the community. It is a 'sign posting' initiative for those veterans who wish to avail themselves of the services on offer in respect to issues such as accommodation, pensions and finance, substance misuse, employment and stress.

As well as the local VICSO 'champion' working with known veterans, they also have an equally important role in encouraging, through posters, leaflets and publicity, those veterans who may have chosen not to reveal their service record to come forward to benefit from the specialist assistance on offer from ex-Service organisations.

Apex Scotland has been involved in a project to support this client group since 2012 with the financial and practical support of Poppyscotland and the Scottish Veterans Fund. Through our work in a number of prisons in Scotland, Apex found that veterans commonly under-reported and therefore went without practical advice and support when seeking employment. Apex staff support this group to deal with issues such as what convictions are spent and unspent, how to disclose previous convictions to potential employers and with conviction relevance. Apex staff work closely with other agencies to ensure that there is a co-ordinated approach to the services provided and no duplication.

An example of how the service operates in practice and its benefits can be seen from the two accounts below.

#### **James was referred to Apex by Poppyscotland in January 2014.**

In 2013 in his home town not far from his barracks, he had been convicted of assault, resisting arrest and assaulting a Police Officer. For this he received a hefty fine. A street skirmish, excessive alcohol and undiagnosed Post Traumatic Stress Disorder (PTSD) resulted in the end of his Army career. He said that "I believed my years of experience, training and service had served no good purpose. A devastating end after 5 years active service, serious injury and suffering, when it should have all been so different".

The nature of this incident and his conviction was a catalyst for change, and James turned to Poppyscotland for help. Apex were invited to work with him and at our first meeting his anxiety regarding his past and future was almost overwhelming. His trauma was not only an integral part of his offence but was also impacting on his ability to move forward.

Working with James on his letter disclosing his conviction to potential employers was difficult for him as he tried to make sense of events that did not make sense to him and that were painful to recall. Although putting events into a perspective, timeline and fact based accounts was extremely painful but also helpful, James began to understand the chaotic and turbulent emotion tied up in his offence, taking responsibility for his actions, developing and imagining a different future.

Together with a new CV and his Letter of Disclosure, James's options began to look a little brighter, his confidence and

wellbeing increasing for himself and partner. His immediate financial circumstances propelled James to become a self employed driver, thus allowing him to retain his stable support mechanisms with Poppyscotland and the NHS.

James attended the 8 week Apex/Poppyscotland Auricular Acupuncture Relaxation Therapy Pilot in June and July extending the strengths in his cognitive toolbox. James remains best placed with Poppyscotland for access to ongoing support and development but finds the specialised support of Apex increases his chances of personal success.

#### **In January 2014 Poppyscotland asked Apex to work with Ian on his convictions, outstanding charge, and the enormous physiological barrier to him returning to work.**

After a rewarding and successful career in the Forces, he found civilian life more troubling and after several job losses, Ian found his circumstances increasingly frustrating and intolerable. This manifested itself in another conviction which was to be the catalyst for change, letting go of false pride and requesting help. Ian had little perspective on his situation, caught up as he was in negative emotion and thinking.

Through working with Apex on rehabilitation and disclosure and writing a Letter of Disclosure, Ian was able to focus on the what, when and how of his offence and display to any potential employer that these incidents were not a true reflection of his achievements, character and self evident hard work.

Ian also took up the offer of Auricular Acupuncture Relaxation Therapy, found it personally rewarding and his inquisitive nature made him the perfect candidate for Apex's 5 Day Auricular Acupuncture Course. He enjoyed this immensely and now regularly assists with groups at Apex. His participation in these activities at the Apex Unit improved the qualities of his day and his compassion and enthusiasm to help others was obvious. Within this environment Ian flourished. Building on previous qualifications he realised that he had the potential skills and desire to deliver Health and Safety training. Apex arranged for Ian to attend a residential course in teaching Health and Safety which he successfully completed: his ambition to become a self-employed trainer is now a reality.

In addition to Apex's disclosure service Poppyscotland also provides tailored funding and support, such as financial assistance and access to respite breaks, holistic advice through the Armed Services Advice Project operated by Citizens Advice Scotland, and employment support through initiatives including access to training grants, vocational assessments and a mental health employability programme, Employ-Able, delivered by the Scottish Association for Mental Health.

**Gerard McEneaney is director of operations for Apex Scotland.**

**Apex Scotland:** <http://www.apexscotland.org.uk>

**Poppyscotland:** <http://www.poppyscotland.org.uk>

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## ABERDEEN BEACH BOULEVARD AND THE BOULEY BASHERS

### Kevin Wallace gives a police officer's perspective

**ABERDEEN** has been the focus of so much of north-east Scotland's economic activity through the past century. People travelled there not only for business but also for pleasure. The region's young people followed this pattern and Union Street became the focus for those 'walking the mat', an early form of today's dating sites, while the Beach Ballroom and Beach Esplanade, became prime locations for relaxing. The Beach Boulevard ('Bouley') linked these two well known centres and became the focus in particular for those with a driving and motoring mindset.

From the 1960s different diverse subgroups evolved within those meeting at the Bouley, often overlapping, based on place of residence, age and vehicle make, model and modifications. Over time these individuals became associated with the term 'boy racer' and more specifically, became known within Aberdeen as the 'Bouley Bashers'.

Especially in evidence during evenings and over weekends, Aberdeen retained this distinct distribution of young people. While not all inclusive, the combination of young often inexperienced drivers filled with pride in their vehicles, an open road and an attentive audience often resulted in displays of inappropriate, unsafe and illegal driving and collisions in the area; frequently followed by others seeking to attain and exceed the standard 'set'.

The 1990s saw the start of a period of change. Redevelopment of the beach in particular saw new retail, leisure and especially residential developments, and this drew attention to the activities of the visiting motorists and their general behaviour. This brought new challenges for the police and local authority in how to respond to, and manage, the

daily complaints and high expectations of the existing and new communities. This resulted in regular and active police patrols which were then perceived by the drivers as targeting and persecuting them.

The north east economy was buoyant and through sustained growth, communities and businesses multiplied. At the same time, the Bouley drivers retained their same desire to congregate at traditional locations. However, affluence saw the traditional well used second-hand cars, being replaced by new high performance and highly modified cars, many equipped with tuned engines, growling exhausts and decibel bursting music systems. These only exacerbated complaints from the local community who saw the 'Bouley Bashers' as the villains of the peace, quite literally.

In 2000 Grampian Police commenced a process of restructuring whereby 'Neighbourhood officers' took responsibility for their beats, meeting the expectations of local residents and resolving local problems. This was a timely development in respect of the Beach area: residents and businesses now had a single point of contact to which to take their concerns.

This resulted in the local Neighbourhood Constable introducing a new initiative: a Problem Solving Policing plan (PSP). Initially it allowed a detailed review of the problem to be carried out, before tasks were created and allocated both internally within the organisation and externally through partner agencies, most notably the local authority, Aberdeen City Council. The PSP held a record of our efforts to resolve local concerns. This was to prove instrumental as we moved forward.

My arrival in 2003 as the Neighbourhood Sergeant provided a personal focus on the issue and as a former Traffic officer, I was able to introduce a level of knowledge within the Neighbourhood team, which had not previously been available. We further developed the PSP, pushing boundaries and looking across the country for best practice and solutions. Elected Members, road engineers, traffic management teams and legal experts were consulted, while police officers were briefed to ensure their awareness of the issues, case law and their responsibilities. Offences were also being 'fast tracked' by the Procurator Fiscals office.

We understood that the differing groups had their own opinions and brought these groups together through invited and public meetings to share their concerns. The roads were realigned, traffic lights inserted, parking restrictions put in place and policing operations run, yet the problems and complaints continued.

The following year saw the introduction of the Antisocial Behaviour (Scotland) Act 2004 to address antisocial behaviour across our communities. While not exclusively designed to be used in conjunction with motorists, this provided us with a tool to achieve respite for local residents if not a long term resolution. Acceptable conduct viewed not from the 'average drivers' perspective but from that of residents and communities.

The antisocial use of vehicles was addressed within the legislation and we could now deal directly and more importantly immediately with the 'nuisance' and lower level conduct we were encountering. Under section 126 of the Act, where a vehicle was driven 'off road' or 'carelessly' within an area which was the subject of antisocial behaviour, Officers could issue a warning. This was recorded against both the car and the driver for a period of 12 months and any repetition involving either would see the vehicle seized, the owner having to pay a fee for its release. This allowed officers to bring an immediate focus to the problems, improve driver behaviour, prevent repetition and more specifically provide some respite to the community.

Section 126 proved to be a valuable tool, but it took time for officers to become familiar and confident in its use and drivers to understand its application and amend what had become traditional behaviours. Hundreds of drivers would visit the area and despite media releases, meetings and education sessions, drivers struggled to take on board the messages and implications of their actions. Complaints continued. However the Act did offer greater powers for particular places of concern, as the Beach Boulevard area had become. A detailed set of requirements had to be put in place before this last resort legislation could be used: our PSP now came into its own. Here we had a documented record of our actions, showing all options had been considered, applied and proved unsuccessful.

On 1 March 2005, following an administrative and advertising processes, the 'Beach Boulevard' became Scotland's first Dispersal Area (Part 3, Antisocial Behaviour (Scotland) Act 2004). Close scrutiny followed, political figures from far and near visited, media, motoring magazines and other police forces followed its progress.

The three month dispersal area was overtly policed, providing respite for local residents from constantly circling vehicles, associated music, litter and noise pollution created

by the presence of the vehicles, their use and occupants. Inappropriate vehicle use saw drivers stopped, their details noted and the concerns discussed. Issued with an information leaflet they were instructed to immediately leave the Dispersal area, prohibited from returning until the following morning. While some offered to challenge the situation, they all left the area in compliance with the legislation.

Prosecution and vehicle seizure resulted from any breach and two individuals did challenge the dispersal, returning to the area within the prohibited period. They were identified, charged and reported regarding the breach of the legislation, subsequently being convicted of the offence.

A three month extension to the Dispersal Order offered the maximum six months respite to the local Community. As such the Dispersal Order was successful, however it was never going to be sustainable and a continuation of traditional policing methods was necessary.

The work of the Neighbourhood team through the PSP had seen consultation and partnership working which pulled driver groups, residents, communities and the police together to find solutions and options, which met the needs of the enthusiasts, without creating issues for other communities. Mediation and increased communication including involvement in enthusiasts websites all played a part, however did not fully eradicate the conflicting views or behaviour.

Turning to the present day, we now see a very different situation. There is reduced 'cruising' and no associated complaints within what is still a popular area for recreation. A number of drivers do congregate within a nearby retail car park but officers are rarely called to the area.

An increased road policing establishment in Aberdeen, widespread use of the s. 126 powers across the City and beyond, and the recession, including increased fuel costs, are all credited with reducing the longstanding conflict. I suspect the most significant impact however centres on social media, which has changed the way we all communicate and manage our lives. These remove the need for traditional gatherings, essential to pooling ideas, passing the time and planning meets, These functions can now be managed at a push of a button, from a bedroom or workplace.

While the 'Bouley' has calmed, our communities seek our continued policing commitment to educate motorists within their communities using all legislation available to us.

**Kevin Wallace is an operational Police Inspector with responsibility for the Northfield Community Policing Team, within Aberdeen Division, Police Service of Scotland.**

For an academic perspective on the Aberdeen Beach Boulevard story see:

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Lumsden, K. (2013) *Boy Racer Culture: Youth, Masculinity and Deviance* Routledge

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Karen Lumsden comments on this article on <http://scottishjusticematters.com/sjm-blog/>

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# THE 'GLASGOW SYSTEM'

## CLASS, GENDER, POVERTY, PROSTITUTION AND THE POLICING OF VENEREAL DISEASE IN VICTORIAN GLASGOW

**Anna Forrest**

**THE CONTAGIOUS DISEASES ACTS 1864-1869** in England and Ireland, were intended to protect soldiers and sailors from venereal disease by a system of compulsory internal examination of women believed to be "common prostitutes" working in garrison towns and ports.

The story in Scotland is somewhat different. In Glasgow, for example, prior to 1800, there was some tolerance of listed brothels, bawdy houses and "sporting ladies" patronised by merchants, trade and military. The pioneer Glasgow Police Act 1800 established a professional and organised 'police' presence. However, officers were not well organised or disciplined and apparently resented their role as 'domestic missionaries' in street work, dealing with drunkenness and vice. A Lock hospital had been established in Glasgow in 1805 for "Unfortunate Females with Venereal Disease". A Magdalene asylum for the refuge and reformation of girls at risk was founded in 1812.

By 1841 a new category of prostitute was emerging, considered different from the "hardened" in the trade, the widowed or deserted and those with no recourse to honest employment, according to City Mission worker William Logan (Logan, 1871). Actresses, milliners, shop girls, domestic servants, factory and mill girls, and most notably young girls from the immigrant agricultural gangs were petitioning for admission to the Lock for treatment. A new strata of clandestine, amateurs or "slys" were also working the streets part-time, including ballet girls and music hall and variety theatre artistes, those on short hours and poorly paid work.

The Police Improvement Act 1862 together with the Licensing (Scotland) Act 1853 (Forbes Mackenzie Act) controlled drinking hours by closing public houses on a Sunday and by 10pm on weekdays. Consequently shebeens flourished, operating in lodgings, brothels, free-and-easies, music halls, markets and fairs. As matters became even more chaotic, prostitutes became more desperate.

The Contagious Disease Acts were not enforced in Scotland. However, other strategies evolved, known as the 'Glasgow System', involving an unprecedented collusion between policing and medical authorities. A Glasgow Police Act (or 'Brothels Act'), passed in 1866 and enforced from 1870, gave police and courts greater powers to raid and suppress brothels, brothel-keepers and proprietors of low houses. From 1869-1879 over 100 special patrolmen or lieutenants were drafted in for "street walking and sanitary duties".

**If convicted of importuning or soliciting, a fine of 40/- was applied or 14 nights in jail**

Alexander McCall, Chief Constable of Glasgow from 1870, wasted no time in applying and enforcing the new and ruthless legislation, "... to rid the city of the evil tradition of brothels and prostitution" (McCall, 1881a). Special patrolmen's duties included entering and inspecting lodgings, brothels, shebeens and any premises suspected of harbouring prostitutes, hardened and slys, including the many variety theatres and music halls of the city, as well as the freak shows, circus shows and fairs. Specials arbitrarily identified (on the basis of their appearance) and 'tested' women and girls, mainly the unmarried and unemployed, by requiring them to give an account of how they earned their living. Detained or arrested women would be verbally and vaginally examined in police stations or offices, or Duke Street prison. If convicted of importuning or soliciting, a fine of 40/- was applied or 14 nights in jail. Women and girls found suffering from venereal infection were sent to the Lock, where the indoor period for treatment was 30 nights, later raised to 42. The Lock hospital discouraged women from leaving until 'a cure was effected' by refusing to

re-admit. Women who were keen to avoid admission, due to the Lock's reputation, were risking the later manifestations of syphilis.

Admission to the Lock in these years was mainly by referral from police courts, jail, refuges and hostels as well as the Magdalene Institute. Once an asylum and refuge for girls at risk, for their salvation and reformation, now the Magdalene was increasingly sending girls and very young children to the Lock for treatment (see next issue of *Scottish Justice Matters*).

Dr. Alexander Patterson, Medical Officer of the Lock, emerged as an early advocate of the Glasgow System. In many letters and articles in the *Glasgow Medical Journal* (from 1880-1882), he commends the measures, along with the improved treatments and changes which he had instituted and attributes much success to efficient police work and cooperation with other organisations such as the Magdalene Institute and Duke Street prison. He argued that the Magdalene played a reformatory and corrective role with the Lock performing a curative function, and that the Glasgow System was morally superior to the Contagious Diseases Acts in which the compulsory nature of the vaginal examination destroyed the last remnants of modesty in decent women. The "voluntary" provision of care and cure in the Glasgow Lock hospital was superior as it rendered moral rehabilitation possible (Patterson, 1882a).

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### **Chief Constable Alexander McCall's enforcement measures targeted a lower class of vulnerable women quite arbitrarily on the basis of their appearance and their inability to explain themselves**

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The Lock and the Magdalene played a pivotal role in the perceived success of the Glasgow System and were key to social vigilance in the city. In 1872 the Directors of the Lock presented a motion to Glasgow magistrates requesting that women sentenced for offences under the Glasgow Police Act, if found venereally infected, should be transferred from Duke Street to the Lock for treatment while serving part of or the entire term of their sentence. The effectiveness of the Glasgow System depended on several factors; intensive policing, closing or outlawing brothels and controlling the movement and behaviour of poor and lower class women. Forcing women to find and declare employment when there was none, then compelling them to leave the city, was part of the strategy devised by the Chief Constable. In fact, criminalising a class of women by detaining them in Lock and Magdalene facilities for offences against the so-called Brothels Act, was more than prohibition and no better than the 'cleansing' measures of the Contagious Diseases legislation.

Chief Constable Alexander McCall's enforcement measures targeted a lower class of vulnerable women quite arbitrarily on the basis of their appearance and their inability to explain themselves. Like Patterson, he claimed that the System was "morally effective in ridding a city of an age-old problem and restoring order and security" (McCall 1881b; Patterson, 1883).

However, in 1881, the Parliamentary Select Committee on the Contagious Diseases Act challenged such practices. Questioned on the police operations in apprehending suspect prostitutes as to the consideration of error or mistaken identity, he stated, "You may well know a prostitute as you would know a sweep ... a man with a black face may not be a sweep, but at the same time you would say he was a sweep". He believed that the threat of prison or the Lock was "rather a frightening thing for a woman of that sort", a woman of that sort being one who looked like a prostitute (McCall, 1881b).

Dr. Patterson also gave evidence to the Select Committee noting a drop between 1869 and 1881 from 598 to 349 'objects' treated and attributing this to the rigid enforcement of the Glasgow Police Act. He also asserts that the kindly and caring treatment in the Glasgow Lock and its "voluntary" aspect had a bearing on matters. Neither Patterson nor McCall acknowledged the new legislation for early marriage in Scotland, at 16 years, which could perhaps have contributed to a decrease in illicit sex, or to the ameliorative efforts of the newly established medical officers for health, sanitary and city hygiene department, City Improvement Trust slum clearances and a clean water supply, all of which worked for the benefit of the poor. Interestingly, Dr. Patterson alluded to the change in appearance of prostitutes in the latter years of the Glasgow System to a more a more demure, unobtrusive style of dress, so that they were "often undistinguishable from decent women" (Patterson, 1882b).

The relationship between prostitutes as a social class and the accepted female role in male dominated Scotland was founded on aspects of moral prejudice on many levels. The Contagious Diseases Acts accepted that prostitution was necessary and attempted to regulate it as far as possible. The Glasgow System allowed moral reclamation activists, institutions and medical bodies to persist in maintaining the order of things. The Victorian social and establishment construct for women, and the belief in the eradication of prostitution drove the matter out of cities and out of sight.

Following the repeal of the Contagious Diseases Acts the Glasgow System was adopted in Edinburgh, Aberdeen, Manchester and Liverpool.

**Anna Forrest is a former librarian of the Royal College of Physicians and Surgeons of Glasgow. In our next issue, Anna will write on child prostitution and the Lock Hospital in 19<sup>th</sup> century Glasgow.**

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William Logan, City Missionary (1871) *The Great Social Evil: Its Causes, Extent, Results and Remedies*. London: Hodder and Stoughton 1871

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McCall, A (1881a) *Evidence to the Select Committee on the Contagious Diseases Acts* p.373 and (b) p. 375, 381 and Chief Constable's Letterbook (Select Committee) 1881 and *Records of Glasgow Police Office* 1880-8, np.

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Patterson, A (1882a) *Evidence to the Select Committee on the Contagious Diseases Act* p.128 and (b) p.117

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Patterson, A (1883) "An Exposure of the Contagious Diseases Acts, and of Government Lock Hospitals" *Glasgow Medical Journal* V.19 1883 pp.105-134

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**INTERNATIONAL HUMAN RIGHTS LAW**, and in particular the United Nations Convention on the Rights of the Child (UNCRC), establishes a clear obligation for states to use detention as a last resort, for the shortest period of time and to apply measures that are in the best interests of the child that aim at rehabilitation (UNCRC, article 40, 1989). These obligations are violated in countries around the world. It is estimated that over 1 million children are in criminal detention worldwide (UNICEF, 2009a). This number does not however include the other forms of detention, beyond criminal, or the many cases that remain unreported. Deprivation of liberty is indeed quite a broad concept and would include “any form of detention or imprisonment or the placement of a person under the age of 18 in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority” (UN Havana Rules, 1990). Children are, for instance, also detained in the context of immigration based on their or their parents’ migration status. Immigration detention of children *always* constitutes a child rights violation. Children may also be confined for reasons relating to physical and mental health.

In the case of criminal detention, the majority of children detained in criminal justice systems are in pre-trial detention (UNICEF 2009a), which contravenes the right to due process. In cases where children have been sentenced by judicial decision, it is generally for petty offences (OSRSG, 2012).

In all cases, children deprived of liberty are exposed to increased risks of violence and abuse by police, adult prisoners, prison officials and other detained children. Their civil, political, economic, social and cultural rights are denied. Deprivation of liberty should not mean deprivation of liberties; detainees should continue to enjoy their human rights (UN1990), with the ultimate aim of reinsertion into society.

#### **A challenge yet to be overcome**

In the 25 years since the adoption of the UNCRC the issue of child detention has never been adequately addressed and continues to lag behind compared to the other areas. Detention of children is an extremely serious issue, not only violating basic international obligations (*sensu lato*), but exposing each and every child who is detained, for whatever reason, to further human rights violations (*sensu stricto*). With immigration detention on the rise, there is more regression than improvement in the situation. The fundamental obligations of States under the UNCRC have clearly not been understood, accepted or acted upon. Another indicator is the number of times States have been urged by international human rights mechanisms to end inhumane practices that constitute violations of human rights law per se, such as use of the death penalty, torture, and so on. The underlying concern, compared to other situations (for example, child labour, trafficking), is that children in detention are in the ‘care’ of the State, so whatever happens behind bars is actually a conscious political choice. Out of sight, out of mind?

The issue of children in detention is not high on the social agenda either. What has failed to be understood is that this is not merely a legal issue of international obligations not being fulfilled, but it is also a social concern: there is strong evidence that detention may actually worsen recidivism rates (UNICEF,

# CALLING FOR A GLOBAL STUDY ON CHILDREN DEPRIVED OF LIBERTY

**Anna D. Tomasi**





2009b). While detained, children are exposed to increased violence and deprived education, making their future lives outside even harder. Furthermore, it has been found that detention of children increases public expenditure. Deprivation of liberty of children has short and long-term impact on the child and society at large.

### The way forward

States must seriously commit to concretely and effectively implementing the rights and measures codified in international human rights instruments, primarily the UNCRC. States are required to only use deprivation of liberty in conformity with the law, as a measure of last resort and for the shortest appropriate period of time (UNCRC, 1989). Furthermore, measures such as diversion, which do not involve judicial proceedings, must be promoted. Diversion avoids stigmatisation and has good outcomes for children and public safety, as well as being cost-effective. In cases where judicial proceedings are necessary, social and educational measures are to be the primary option, as the “need to safeguard the well-being and best-interests of the child and promote reintegration must outweigh other considerations” (UNICEF, 2009b).

To turn rights into reality we first need to analyse and understand the depth the situation on the ground. It has in fact been officially recognised that there is a serious lack of data relating to the situation of children in detention (UNSG, 2005, pg.191; OSRSG, 2012) and as mentioned, the general number of reference (1 million) is not comprehensive or certain.

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## The fundamental obligations of States under the UNCRC have clearly not been understood, accepted or acted upon

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For this reason, Defence for Children International (DCI), an international non-governmental organisation with over 45 national sections worldwide, working on child rights and in particular justice for children, decided to launch a campaign to call upon the members of the United Nations General Assembly to request that the United Nations Secretary-General (UNSG) undertake a Global Study on Children Deprived of Liberty.

The Study would take into account deprivation of liberty in all its forms, including; children in conflict with the law; children confined due to physical or mental health or drug use; children living in detention with their parents; immigration detention; children detained for their protection; national security and so on. In order to ensure that deprivation of liberty is clearly understood and thus used as a measure of last resort, there is also critical need to improve the clarity around key concepts which are related to children's rights and deprivation of liberty such as last resort, shortest possible time, best interests of the child; access to justice; pre-trial detention; diversion; restorative justice; formal and informal justice systems; alternative measures; protective measures; age of criminal responsibility; rehabilitation and reintegration; and administration detention amongst others.

In March 2014, after various meetings with the UNCRC Committee, numerous non-governmental organisations, academics and other UN entities, the campaign, having obtained eager and strong support, was officially launched at the office of the United Nations in Geneva. In June 2014, an expert consultation was also held in Geneva to discuss the Study, the strategy to have it formally requested by the United Nations General Assembly and the potential methodology to be followed when conducting the Study. Many experts took part and provided their insight on how to proceed. A mission to New York was then carried out to lobby state representatives at the UNGA in light of the drafting of the UNGA child rights resolution to hopefully formally request the Study. The momentum continues to grow and hopefully the Study will be put into action. So far, over fifty civil society organisations have signed on to support the call for such Study and the UNCRC Committee has recommended the UNGA to request the implementation of such in-depth Study. States are also supporting this initiative.

To undertake a Study of such calibre and extent, which would comprehensively and scientifically analyse the status of the situation of children in detention worldwide and consider the good practices worth following, will take time, close coordination with States and other actors, and of course financial and human resources. The Study does not intend to be an end in itself, but rather a starting point: to get the ball rolling on this stagnant and even regressive issue, by getting all actors involved and thus placing it on the political and social agenda of countries worldwide, in the hope to see an improvement in the overall situation. Through the Study, governments will be able to realise and improve their national policies and practices, while serving the best interests of both the child and society at large. Please sign on to support and be part of this important initiative. For more information, please visit our official website: <http://www.childrendeprivedofliberty.info/>

**Anna D. Tomasi is advocacy officer at the International Secretariat of Defence for Children International in Geneva**

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Office of the Special Representative of the Secretary General (OSRSG) on violence against children, the Office of the High Commissioner for Human Rights (OHCHR), United Nations Office for Drugs and Crime (UNODC) (2012) *Prevention of and responses to violence against children within the juvenile justice system*

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United Nations (1990) Basic Principles for the Treatment of Prisoners, Principle 05

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United Nations (1990) *Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)*

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United Nations Convention on the Rights of the Child (1989)

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UNICEF (2009a) *Progress for Children, A report Card on Child Protection, Number 8*

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UNICEF (2009b) *Toolkit on Diversion and Alternatives to Detention, Compilation of evidence in relation to recidivism.*

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UNSG (2005) *United Nations Secretary-General's Study on Violence against Children*

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# UNDERSTANDING DIVERSITY

A service user from the Youth Community Support Agency talks to lead project worker, **Shoket Aksi**, on behalf of Scottish Justice Matters.

## Tell me about the work of the YCSA.

**SA:** The Youth Community Support Agency is a charitable youth organisation established in 1995 in Glasgow, supporting black and ethnic minority young people enabling them to reach their potential to become active, valued members of the community. Amongst the services currently is literacy, numeracy, youth development, employability support, counselling, Polmont throughcare, mentoring in adult prisons, and drug and alcohol addiction.

## Why does the BME community need specialised support?

**SA:** Within ethnic minority communities, we understand some of the challenges people face. Amongst some of the issues like shame on the family – such a taboo subject, nobody likes to talk about it.

The cultural issues, and at the same time, issues to do with the generation gap are some of the other issues families face. Sometimes there's a lack of communication within the house or between parents and children. Young people are sometimes involved with the gangs, that they're hanging about with the wrong people, end up doing all sorts of things, or it can be simple things such as low self-esteem or other issues they might be challenged with that could cause them to go into prison or through the court process.

## What support does the service provide?

**SA:** The support is a holistic approach.

So any young BME that comes into prison, particularly to Polmont as that's where we're based, we'll pick them up through the prison record system. We'll knock on the door or go visit the young person. Nine out of ten times they'll be happy to engage and even that one who doesn't want to speak to you eventually over time they realise, you know what, from hearing other people – you know, the throughcare officer, "He's all right, maybe I'll have a chat with him".

We understand the difficulties they'll be going through and the difficulties and challenges the family will be going through. We ask questions about goal setting, personal development, any type of support that they need inside and hopefully when they get back out again. We do group work sessions around each of these topics. So, we work with all the prisoners, it doesn't matter the type of offence, how long the sentence is, whether they're remanded or sentenced. We're in there, we'll work with them.

The second part of the work is post liberation. We offer a gate pick up service. We'll continue that support when they're back out. We'll engage with the young person, look back and see what he wanted to do in terms of, is it education? Is it employment? Is it training? So we'll look at that again.



## The YCSA works on behalf of both the young person in custody and their families. Why do you feel it's important to support both?

**SA:** It's crucial; they go hand-in-hand. We're working with a younger group between ages of 16 - 21, so working with the families and working with the young people is important and at the same time when supporting a young person we can see where the young person comes from. Maybe there is a reason why that young person has ended up in prison because of a situation at home. We don't know these things until they explore them.

Some of the difficulties at home are the whole cultural thing in terms of older generation, BME parents. They tend to be very conservative, very reserved and when something like this hits them, it takes quite a bit of time

to get over the initial shock. So supporting them through this journey we give them the tools and the know-how to deal with it, and also how they can support their son. From time to time we've had parents who [say] (going back to that whole thing about being ashamed) that "my son is in prison, I can't see him".

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## **We shouldn't think that people who end up in prison should be labelled and I think sometimes BME communities, all communities, are quick to label people**

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So in that situation then we can explain to the families what it means and what prison is all about. But within prison, in particular within Polmont, there's many opportunities such as education, there's training, and you're able to pick up certificates while you're there, able to learn a trade. If you simply want to go to the gym and get bigger and fitter there's that opportunity. So there are loads of opportunities for people to take up and you can tell the parents, your son, although he's in prison, he's still got opportunities there.

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## **What difficulties and barriers are there in offering specialised support for young BME prisoners and their families in Scotland?**

### **And what do you feel works well?**

**SA:** Some of them are to do with peoples' ideas of what prison's all about. Dealing with people or breaking down barriers that the people who end up in prison are not bad people. We shouldn't think that people who end up in prison should be labelled and I think sometimes BME communities, all communities, are quick to label people. But really it's a case of supporting the families and supporting the prisoners themselves to kind of overlook these barrier and think, don't listen to these people, there's no need. So at YCSA we support them because we understand what prison's all about and we can understand some of the challenges the family go through.

So the specialised support is for us to understand the cultural sensitivity. As well as that the religious aspect can come into it because people from BME communities, the diverse communities, still have some form of faith, be that Christian, Muslim, Sikh, and Hindu, When you're going into families' homes and when you engage with families it's the people who understand, or people who are relevant in terms of who are the right people to do the job.

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## **How effective is the work of YCSA to do with the offenders?**

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**SA:** I think the work has been quite effective in the sense that we've managed to reduce a reoffending rate particularly within the BME community.

In 2008 my CEO, Umar Ansari, was managing programmes within school and some of the young people they were supporting ended up in Polmont. So Umar used to go as a volunteer with the Imam to just visit. Eventually the numbers grew and they felt that there was the need for a post: that's where I came in, in June 2008.

When I first went into Polmont young people there weren't picking up any services, they were staying in their rooms 24/7, getting out for an hour or so for the gym or for a bit of recreation or for some food and whatever. And then they'd just go back in. Derek McGill who was the Governor of Polmont at the time, he'd highlighted this issue that he'd found a lot of the BME young people weren't accessing the services. So we started encouraging young people to get into some of those various services and opportunities, and they did. Currently in Polmont, probably more than half of them are accessing two or more services not just the one. They're not just going simply to education; they're going to education plus gym plus something else, the radio or something else.

So that's some of the changes there and at the same time it's given us access. One of the things we try to do, one of our outcomes is to try to reduce is homelessness so we are trying to find alternative accommodation for young people who might not be able to go back home. Thankfully the majority of young people we work with, the majority of times manage to go back to their family home through mediation and other ways.

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## **What are some of the highlights of the service?**

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**SA:** The Scottish Government had an event where some of our young people went along to deliver a presentation and that was brilliant. Currently we sit within the equality and diversity committee within Polmont, and we have quite a big say within that. Amongst other things we've had the opportunity to share a platform with the Justice Secretary Kenny MacAskill as well. We're out there and people get to know us. We're small relatively speaking but our work has been recognised by people from different levels of government, right down to statutory services to other third sector volunteer organisations.

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## **Where do you see the YCSA youth justice service in the future?**

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**SA:** There is still some room for change and improvement so to the make the service more effective and efficient. With the service currently working across Scotland I would like us to provide support to all BME offenders in any prison anywhere in Scotland. Ideally it would be a case of us being the first point of contact for all estates across the country so to provide immediate support.

It's a unique service that definitely needed; a service that understands the needs of the BME community and that can support the BME community effectively. We hope it continues.

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[The full interview can be heard on soundcloud.com/sjmjournal](https://soundcloud.com/sjmjournal)

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# SECURE CARE – WHAT'S IT ALL ABOUT? ROUTINES!

## Becca

**I HAVE BEEN** in secure care for five months and residential before that. When I first came I was brought through the garage and had a 'personal search'. I had no idea where I was or what was going on! It was night time so I was taken to my bedroom (well more like a cell) the door locked after staff went out and there was nowhere for me to go. That was pretty scary but weirdly I slept soundly! Staff checked on me really regularly, viewing me through a wee panel, something else new and weird!

The next morning I got a wakeup call around 8am. I was a bit confused but quickly realised this was one of the 'routines' of the unit! I asked to go for a shower and had to be given toiletries for this, handing them back straight after I had used them. I was taken to meet the other young people and was really wary about this, but everyone was really nice and seemed relaxed so once I got to know them all I was fine.

Staff spoke to me about the rules of the unit, no hoodies (!!!), and certain times for things. We weren't even allowed out for fresh air if it wasn't our 'courtyard time'. The weirdest thing was that they told me when I would eat. I had so much to get used to at the start I thought it would take me ages. I asked staff LOADS of questions, but for the first time in ages I felt safe and settled.

I hadn't gone to school for at least two years but I knew that this was expected of me. So I started going every day and began to enjoy it. I have been focusing on Maths and English and have achieved qualifications in both. There is a salon and I am working alongside a beautician to deliver treatments, more qualifications! I also got involved with making a film, have started my Duke of Edinburgh award and have been fixing bikes for my Velotech award. I want to become a mechanic so all of this helps towards getting into college and getting a work placement.

During the first few weeks all calls and visits are supervised. That was difficult because I couldn't really speak to my family properly and I wasn't comfy. I was really annoyed about that and became quite angry at staff but I was told that I had to accept it as it was all part of my risk assessment. Everything is risk assessed here, whether we can go into the unit or sit at the dinner table. When I realised that it was going to happen no matter what I said I got on with it. Eventually I got to spend time with my family without staff being there!

After my Assessment I had to attend a big meeting where they discussed the work I was going to have to do. Everyone does programmes or therapy of some sort to help them to move on. I met the person I was going to be working with, it was good to have someone to talk to that wasn't staff or my parents. We talked about my future and we made a plan together. It made it easier being here because I could do

**Everything is risk assessed  
here, whether we can go into  
the unit or sit at the dinner table**

things to help me move. When your assessment is finished you move from the Assessment Unit, I really didn't want to go! I had made friends in the unit and got on really well with the staff. It was hard leaving everyone else behind.

I've just moved to the Close Support Unit where I get a fob for my room so I can walk in and out (I don't need to ask to go to the toilet) and you are given much more freedom. I'm just about to start my independent walks and am increasing time away from the unit; it's been hard been away from my friends and family for this long but my relationships with my family have definitely improved. Following the 'routines' hasn't been all bad!

When I think about the way things used to be for me and the things I missed out on because I got caught up with smoking weed every day I can't believe I let myself get like that. If I hadn't come here I'm really not sure where I would have been now.

**Rebecca is fifteen and had been in secure care for four months and is now into week seven of close support.**

# Take Five

Scottish Justice Matters asks our politicians to respond to questions about crime and justice. We asked:

**In a recent lecture, Professor Lesley Mcara said that it was a 'national disgrace' that the age of criminal responsibility in Scotland is still eight years old. What is your view?"**

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## **Kenny MacAskill MSP, Scottish National Party**

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**THE AGE** at which we, as a society, judge our children to be able to understand the difference between right and wrong is an important mark of the type of society we want for Scotland.

This Government has already raised the age of criminal prosecution to 12, meaning that no child under the age of 12 can ever be prosecuted in court. As Justice Secretary, I believe that this strikes the right balance between the age a young person understands that their behaviour is harmful and their ability to understand court proceedings. The evidence shows prosecution at an early age increases the chance of reoffending, so this change was about preventing crime and means that young people are now held to account in a way that is appropriate for their stage of development. Of course, only the most serious offences involving 12-16 year olds are prosecuted through criminal court, in line with the Lord Advocate's guidelines, with less serious offences referred to the Children's Hearing System.

I absolutely recognise that the age of criminal responsibility in Scotland also needs to be looked at though, which is why we have given a commitment to do just that and we are considering this alongside our commitment to give better effect in Scotland to the UN Convention of the Rights of the Child (UNCRC).

Clearly, there is a lot to consider in terms of the practical implications of such a change, including for example, the impact on police investigatory powers and ensuring that appropriate and robust interventions can still be taken where children are involved in offending behaviour. This is particularly the case where children under 12 are involved in serious sexual or violent offences. These considerations are on-going and we intend to make an announcement on the way forward in the coming year.

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## **Graeme Pearson MSP, Scottish Labour**

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**SINCE** the 1970's, and in my own view the more enlightened approach introduced alongside the Children's Hearings, the prosecution of children in our courts has thankfully become relatively rare. Young people under the age of 16 years and in some cases under 18 years of age are for the most part referred to the Children's Hearing system to enable a child centred response. Even in those rare circumstances when a child is prosecuted at Solemn Procedure the referral to the Children's Reporter to identify an adequate disposal of the circumstances is acknowledged as an effective conclusion to the case in terms of legal process.

Largely due to the acknowledged success of this system of disposal, the issue of the age of criminal responsibility has rarely featured in the public's interests in Justice issues. In my view however, eight years of age is no longer a sustainable bench mark against which to judge a child's ability to act with criminal intent. Although not currently a subject area in terms of the Scottish Labour Party's manifesto commitment I have, on a personal basis, come to acknowledge a move towards 12 years as an appropriate extension to that period we currently identify as being below the age of criminal responsibility is desirable and sustainable with the public.

I realise there are those who would like to see public policy extend that barrier further but I feel inclined to say that in many communities vulnerable to criminal acts such a change would be resisted and seen as unreasonable. I do however think that when and if this issue is examined with an intention to reform, politicians should be willing to listen to the evidence on this subject before confirming what, if any, change in the age limits applying can take place.

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## Margaret Mitchell MSP, Scottish Conservatives

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**THE** general rule in Scots Law is that a child becomes an adult and has legal capacity at the age of 16 (Age of Legal Capacity (Scotland) Act 1991). There are however, a myriad of exceptions to this rule.

In particular, the age at which a child is 'responsible' changes according to the subject and circumstances in question. For example, when instructing a solicitor or making a medical decision, 12 years old is presumed to be old enough. Conversely, it is 18 to serve on a jury.

Furthermore, a child under 12 cannot be prosecuted in court for a crime but as the age of criminal responsibility in Scotland is 8, a child between the age of 8 and 12 can be referred to the welfare-based Children's Hearing System on offence grounds, which may result in the child obtaining a criminal record.

To add further confusion, the proposed Criminal Justice (Scotland) Bill instructs the police to treat anyone under the age of 18 as a child. Most recently parliamentary debate has focused on the voting age, with all parties in Scotland calling for it to be lowered to 16.

Clearly there needs to be a radical overhaul in this area of law and the issue needs to be looked at as a whole. A balance needs to be struck between understanding the average child's decision-making capabilities, while acknowledging that there will always be exceptions to the rule at both ends of the spectrum. If a child is old enough to wreak misery on a community and inflict huge damage on people's lives, it is imperative they understand the consequences of this behaviour.

Moreover, in addition to the technicalities involved in increasing the age of criminal responsibility, the crucial question which needs to be asked in this debate is: "Where do the parents and parental responsibility feature?"

If parents are struggling to ensure that their children don't embark on the wrong path or if they have already done so, the appropriate support must be available to try to reverse the trend.

What isn't acceptable, in these circumstances, is for parents to merely absolve themselves completely from any responsibility for their children and this too must be a factor taken into consideration.

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## Alison McInnes MSP, Liberal Democrats

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**WITH** vulnerability difficult to define, "at what age..." is a question often posed by legislators seeking to provide for the emotional, mental and intellectual maturity of children. The law is inconsistent in its perceptions of their capacity to make decisions, sufficiently understand or be deemed responsible for their actions. In this case, it is also woefully outdated.

Scotland has the youngest age of criminal responsibility in Europe and has fallen behind best practice. Criminalising children as young as eight has "long tarnished" our international reputation according to Scotland's Commissioner for Children and Young People. Indeed, increasing the limit to 12 is "the absolute minimum" the UN Committee on the Rights of the Child expects.

Early and effective intervention is appropriate for those who do engage in offending behaviour. The age of criminal prosecution increased to 12 in 2010, reflecting extensive opinion that children shouldn't come into contact with the criminal justice system any earlier. Raising the age of criminal responsibility is therefore unfinished business.

While rare in practice, Barnardo's tell us there are occasions when referrals to children's hearings on offence grounds cause a child of just eight or nine to obtain a criminal record. This could limit their opportunities for life and is an inappropriate and destructive response the law should prevent. Anything less would be incompatible with the Scottish Government's "getting it right for every child" agenda.

The Criminal Justice Bill presented the ideal opportunity, perhaps even the last, for this Scottish Government to raise the age of criminal responsibility. Like many children's organisations, Scottish Liberal Democrats were dismayed it was omitted. When pressed, the Cabinet Secretary told me this was because it hadn't been consulted upon yet.

I hope we can overcome this lack of political will and ensure the rights of all children are protected.

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## Patrick Harvie MSP, Scottish Green Party

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Patrick has been unable to file a response to this issue's question following post-referendum pressures and commitment.



# BOOK REVIEW

## The Panopticon

Jenni Fagan, 2012, London: Windmill. 336 pp ISBN 978-0099558644



**CRIMINOLOGISTS** will know the 'Panopticon' as Bentham's perfect prison, where every inmate can be seen at all times from the watchtower above. The surveillance, or simulation of surveillance, is a constant reminder that the lives of the occupants are not really their own as they are viewed and judged from on high. Here though, the Panopticon is (not uncontroversially) the name of the children's home, and the same feelings apply.

The heroine of the novel, Anais Hendricks, is a new resident of the facility: a move which is yet another move in a series of moves which make up her short but chaotic existence.

She travels light in life with only three bin bags to her name, but is also heavily weighted with the labels of 'orphan' and 'offender' which threaten to crush the true person she is.

The Anais that the reader has the privilege to meet is fierce, funny, fashionable, caring, articulate, perceptive and intelligent. Very quickly you love her, making the fact that she is not loved seem all the more unjust.

The story is complex and wrestles with difficult issues such as loss, abandonment, bereavement, mental health, and substance misuse, and at times it threatens to engulf the reader and lose sight of the fact that this is all happening to a young woman. Indeed, maybe this is the point that Fagan wants to make, that there is a danger that those who appear capable are responsabilised at a much earlier stage than what is appropriate. But, this is also a story about friendship and is ultimately hopeful.

Unlike Bentham's prison, the residents in the children's home are generally each other's salvation, and one worker, Angus, highlights the ripple effect of being a decent human being. His small words of encouragement help Anais realise her potential and, importantly, retain her fragile identity of being a 'good' person. It is sad to say though, but all the other services she encounters, that is other workers in the children's home, the police, children's hearings panel members and social workers are presented as being far from 'human'. Angus therefore emerges as a lone voice, someone who has defied the system rather than a product of it.

This debut novel by Fagan is beautifully and poetically written in a Lothian dialect, which embellishes both the harsh reality endured and the softer dreams or experiences conjured by Anais or her substance misuse which she uses to escape her oppressive environment. Arguably such 'trips' can seem necessary, if not at least justified.

It is an excellent read for anyone and particularly for those working or involved in the youth justice or care system in Scotland and beyond. The 'insider view' articulated from the perspective of Anais gives a rare and convincing opportunity to try to understand the lived realities of the impact of the system, and what it actually means to be 'cared for' by the corporate parent. Big and small challenging questions arise throughout this novel, and even unforeseen or less thought about ethical considerations, such as the implications of involving a social work student in a young person's case, are all formulated and left unresolved.

In short, Fagan has constructed a compelling story about a young woman in care who doesn't know who she is or where she is going, and although worrying the reader is rewarded with a thought provoking and insightful journey. To anyone working in the field of children and young people and justice, there is an urge which resonates that we must and can do better.

**Briege Nugent** is studying for a PhD at the University of Edinburgh. Her research focuses on how to enable young people to disengage successfully from reliance upon support services after the age of 18, and how progress towards desistance from crime fares in the face of major life transitions and critical events.

# scottish justice brief

## Current legislation

### Air Weapons and Licensing (Scotland) Bill

This Bill was introduced in May to “make provision for the licensing and regulation of air weapons” and other licensing matters relating to alcohol. The regulation of air weapons was an SNP manifesto commitment in 2007 and 2011, and the right to legislate was implemented by the Scotland Act 2012. The Local Government and Regeneration Committee will start hearing oral evidence shortly in November.

### Criminal Justice (Scotland) Bill

“A Bill ... to make provision about criminal justice including as to police powers and rights of suspects and as to criminal evidence, procedure and sentencing” and other matters. Most media attention continues to be directed at the provisions to implement the proposal in the Carloway Review, to reform the Scottish evidential tradition on corroboration.

The Justice Committee’s Stage 1 report published in February supported the general principles of the Bill with the exception of the corroboration proposals. A late announcement, by the Cabinet Secretary, that a reference group under Lord Bonomy was to be set up, to consider what additional safeguards and changes to law and practice may be needed in when the corroboration requirement is abolished, came too late for the report (see John Blackie’s article in SJM4). Although the Bill then cleared Stage 1, a surprise announcement in April, in heated exchanges at Holyrood, postponed Stage 2 and therefore any further progress, until after the Bonomy group reports, which it did in October. There is currently a consultation on the report which is due to close at the end of November.

[www.scotland.gov.uk/About/Review/post-corroboration-safeguards](http://www.scotland.gov.uk/About/Review/post-corroboration-safeguards)

### Criminal Verdicts (Scotland) Bill

This Member’s Bill was introduced by Michael McMahon MSP on 27.11.13 to “make provision for the removal of the not proven verdict as one of the available verdicts in criminal proceedings; and for a guilty verdict to require an increased majority of jurors”.

The Justice Committee is to lead scrutiny but it does not appear in its work programme. No other information is available at the time of writing.

### Prisoners (Control of Release) (Scotland) Bill

“A Bill to end the right of certain long-term prisoners to automatic early release from prison at the two-thirds point of their sentences and to allow prisoners serving all but very short sentences to be released from prison on a particular day suitable for their re-integration into the community.”

The ending of automatic early release was an SNP manifesto commitment in 2006. However, a more pragmatic view against a revision of current practices held in the face of repeated criticism especially from the Conservatives. This Bill, introduced in August, ends automatic release at the two-thirds point and replaces that with discretionary release overseen by the Parole Board at the halfway point, for prisoners sentenced to four years or more for a sexual offences and for those sentenced to 10 years or more for any offence.

The Justice Committee will hear oral evidence on the Bill in early 2015.

## Events

### TV on Trial: Should Justice be Televised?

**Thursday 20<sup>th</sup> November, 2014**  
**Filmhouse, Lothian Road Edinburgh**

Howard League Scotland invites you to join them in the Filmhouse for a screening of Channel 4’s *The Murder Trial* – the BAFTA award-winning documentary which televised the retrial of a high profile Scottish murder.

The screening will be followed by a Q&A with: **John Scott QC**: Defence lawyer for accused in *The Murder Trial* and **Aamer Anwar**: One of Scotland’s most prominent human rights and justice campaigners.

For more details and booking information, visit [www.howardleaguescotland.org.uk](http://www.howardleaguescotland.org.uk)

### Inaugural Annual VSS Lecture

**Wednesday 18<sup>th</sup> February 2015**  
**Signet Library, Edinburgh**

Speaker: **Dame Elish Angiolini**, the former Lord Advocate for Scotland and now Principal of St Hugh’s College at Oxford University,

[www.victimsupportscotland.org.uk](http://www.victimsupportscotland.org.uk)

### Poppy Scotland Conference on Veterans in the Criminal Justice System

**Wednesday 4<sup>th</sup> March 2015**  
**Stirling Management Centre**

The day will include keynote speakers, practical and information workshops and a cross sector panel debate.

If you would like to attend this conference then please register your interest with Danielle Coll by either email: [d.coll@poppyscotland.org.uk](mailto:d.coll@poppyscotland.org.uk) or telephone: 0131 550 1555.

## More SJM

**March 2015**: special issue on *Environment, Crime and Justice in Scotland*, will be edited by Hazel Croall, Professor Emerita at Glasgow Caledonian University

**June 2015**: special issue on *Policing* to be edited by Nick Fyfe, Director of the Scottish Institute of Policing Research, Dundee University.

# UK Justice Policy Review:

## Volume 2

6 May 2011 to 5 May 2012

# UK Justice Policy Review:

## Volume 3

6 May 2012 to 5 May 2013

By Richard Garside, Arianna Silvestri  
and Helen Mills

# UK Justice Policy Review:

## Volume 1

6 May 2010 to 5 May 2011

By Richard Garside and Helen Mills

## CENTRE FOR CRIME AND JUSTICE STUDIES

The *UK Justice Policy Review* is an annual series of publications tracking year-on-year criminal justice policy developments in the UK since the formation of the coalition government in May 2010.

Each review focuses on the key criminal justice institutions of policing, the courts and access to justice, and prison and probation, as well as changes to the welfare system. The publications are free to download and the online versions include links to all the original data and the references used in the review.

*UK Justice Policy Review: Volume 1* (May 2010 to May 2011), *UK Justice Policy Review: Volume 2* (May 2011 to May 2012) and *UK Justice Policy Review: Volume 3* (May 2012 to 5 May 2013) are now online and available to download from: [www.crimeandjustice.org.uk/project/uk-justice-policy-review](http://www.crimeandjustice.org.uk/project/uk-justice-policy-review)

[www.crimeandjustice.org.uk](http://www.crimeandjustice.org.uk)