

## Preface

This review of crime and justice in Scotland is the second to be produced by the Scottish Consortium on Crime and Criminal Justice and builds on the first which was published in December 2005. The Consortium is an alliance of organisations and individuals committed to better criminal justice policies. It works to stimulate a well-informed debate and to promote discussion and analysis of new ideas. It seeks a rational and socially inclusive approach to crime and justice in Scotland which respects individual rights and uses resources to best effect. It recognises that criminal justice is an emotional subject. Fact and evidence are often the victims of political pressures and instant responses to tragic events. But without a framework of fact and evidence very expensive decisions can be made that store up problems for the future.

The review of crime and justice in Scotland was conceived

as a tool to chart progress, show where criminal justice policy was giving good results and where problems were occurring, and put Scotland's performance in a UK-wide and international context.

In this second review we have been able to show in a small way the direction of Scotland's policies, to highlight where last year's concerns have intensified and to point to positive trends that are continuing.

We hope it will be useful to politicians, policy-makers, and members of the general public concerned to see public money spent on criminal justice used in the best way to make Scotland both safer and more just.

Baroness Vivien Stern

Convenor  
Scottish Consortium on Crime  
and Criminal Justice

## The review

The aim of this second review is to give an overview of crime and justice policies in 2005/6 and by making comparisons with data from our last review for 2004/5 to indicate how Scotland is moving and what is changing.

There are no precedents for evaluating policies on crime and justice as a whole and no agreed set of indicators as to what should be measured and judged when policy is being assessed.

In our first review we said:

‘We can assume that politicians and policy-makers in the crime and justice field draw up their policies and allocate resources with the aim of reducing crime, promoting a sense of safety and security and enabling courts to impose sanctions that are proportionate, effective and command public confidence. These objectives must be delivered within a framework of fairness, respect for human rights obligations, humanity and accountability. The need to use resources to best effect is an overarching objective.’

We continue to make that assumption.

In this review we attempt to pull together activities and outcomes over a range of fields and assess them as a whole. Our perspective is not primarily legal and we do not look at the detailed operation of the law. We are mainly concerned that the system should produce results that ensure people’s safety and peace of mind, administer justice fairly and aim for social inclusion.

## Our framework

For our first review we set out a set of indicators that seemed to us, taken together, to give a basis for making an assessment of the progress of the system as a whole. They are:

- Levels of crime – is crime reducing and within the overall figures what is the picture for violent crime?
- Detection of crime – are the police clearing up more crimes?
- Policies to support victims – does the system take an adequate and individualised

approach to caring for the victims of crime?

- The sanctions system – are the penalties proportionate and well-administered; do they contribute to the reduction of crime and are they as rehabilitative as it is possible for sanctions to be?
- Reforms to the system – do they increase public involvement, aim to raise public confidence and represent a sensible use of scarce resources?
- Dealing with children in trouble – how far are the principles of the Convention on the Rights of the Child embedded and observed in the system?
- Human rights and accountability – is the treatment of individuals and groups in accordance with Scotland’s domestic and international obligations on human rights?
- Alcohol and drug abuse – what progress is being made in tackling the problems which lie at the root of much crime and violence?
- Public attitudes – is the public confident that their interests are properly reflected in policy and how safe do they feel?
- Use of resources – is public money allocated on the basis of knowledge about the best return for money spent?

## The sources

The information comes from a range of official sources. We have drawn on the latest available published figures <sup>(Endnote 1)</sup>. We have not carried out any new research. Therefore our assessment of progress on the indicators we have chosen is based on information that is available from official statistics, academic research or other well-founded reports. The interpretation and commentary on the information comes from the expertise of Consortium members.

## Summary and conclusions

The information we have collected from many different sources shows that:

- Crime rates are lower in 2005/6 than in 2004/5.
- According to an EU survey Scotland has a much lower rate of crime than England and Wales and is placed at the European average for ten common crimes.
- Crime detection rates continue to improve.
- Although Scotland has a relatively high murder rate in international terms, the murder rate in 2005/6 was down by one third and was the lowest since 1990/1.
- Victims' services are improving and according to a European survey Scotland's victims services have the highest coverage in the EU.
- The trend towards more prison sentences and fewer fines continues and again over 80 per cent of all custodial sentences passed are for six months or less.
- Levels of imprisonment are higher than 2004/5 and overcrowding is worse, with predictions of an increase of 14 per cent in the number of prisoners when new legislation is implemented.
- The number of women imprisoned has not risen since last year.
- The number of people controlled or supervised by the criminal justice system, in prison and outside, has grown considerably in the past five years.
- The Scottish Prison Service continues to make considerable progress in running humane and respectful prisons in spite of overcrowding pressures.
- The system for dealing with children in trouble remains one of the most progressive in Europe.
- The introduction of the Community Justice Authorities gives an opportunity for a more strategic and community-oriented

approach and a more focused use of resources.

- The Scottish Human Rights Commission Act was passed by the Parliament in 2006 and Scotland will have its own Human Rights Commission.
- The detention of asylum-seekers and their families in Dungavel has been reduced as a result of protests but continues on a lesser scale.
- The public sees crime and drug abuse as the two most serious of all social problems.
- Work commenced on a new prison with 700 places to be run by a private company and a second new prison was announced.

In many ways the developments of 2005/6 have been encouraging. Recorded crime is not increasing and Scotland seems to be at the European average for its crime levels. Many crimes are solved and victim services are well regarded. The Scottish Human Rights Commission is to be established. The Community Justice Authorities are a development that could lead to radical changes that will make a difference to crime and fear of crime in local communities. Scotland continues to maintain its high reputation for its system of dealing with children in trouble.

Yet, in spite of such a background of success and progress and against all the evidence, Scotland continues to seek more punishment as the answer to its crime problems. More people are under orders of the court. The rate of imprisonment in the past five years has grown from 122 per 100,000 to 141. We are seeing a growth in the size of the criminal justice system that should perhaps be better understood and evaluated. Is Scotland safer because a larger part of Scotland's people see the inside of a prison cell or are under the control of the criminal justice authorities? How many is it appropriate to have under penal control? Would the outcome be better if some of these people were receiving health treatment or welfare interventions instead? A new prison is on stream with a 25 year contract and a cost commitment that is huge. A further new prison is now agreed and a third new prison is being discussed.

So we must ask, is Scotland making the right choices in its criminal justice policies? Scotland is becoming a more punishing society. Against a positive background and with some very successful policies on crime Scotland continues on the destructive and expensive path of more and more imprisonment. Without applying some reason and some evidence, we shall saddle future generations with commitments they do not need, institutions that serve little purpose and problems to solve that have been allowed to get worse rather than better.

## 1. Crime and offence levels

The level of crime is an important indicator of performance. Measuring the actual level of crime is not possible but the number of crimes recorded by the police is a reasonable indicator.

(Endnote 2)

Recorded crime in Scotland remains at a much lower level than in the 1990s. If overall recorded crime levels are an indicator of safety and security Scotland is a much safer place than it was in 1991.

The figures for 2005/6 show a reduction in **crimes** (the term 'crimes' is generally used for the more serious incidents) - reported to the police of 5 per cent. (Ref 1)

- Recorded robberies decreased by 5 per cent to 3,553, the lowest figure for over 25 years and serious assaults decreased by 8 per cent.

- Those crimes that have a particular impact on personal property, ie housebreaking and theft from vehicles, are also down.

Violence is always the major cause of concern.

- There were 13,726 crimes of non-sexual violence, a decrease of 7 per cent on the previous year.
- Crimes of indecency decreased by 10 per cent, the lowest total in four years.
- Within this group, rape and attempted rape increased to 1,161, the highest ever recorded and probably a result of encouragement to report such crimes including those that have occurred in past years.

Crimes of dishonesty decreased for the seventh consecutive year to 187,798. Particularly large reductions were recorded in housebreaking, thefts from motor vehicles and fraud (perhaps due to the introduction of chip and pin). Vandalism decreased by 1 per cent.

The police recorded 593,816 **offences**, (this term is used mainly for actions connected with motoring, low-level assaults and breach of the peace) a reduction of 6 per cent from the number in 2004/5 largely due to a decrease in speeding offences.

The reduction was evenly spread with only one police force area, Grampian, rising slightly by under 2 per cent. (Ref 1)

Figure 1 Crimes and offences recorded by the police 1930 -1994 then 1995/96 - 2005/06

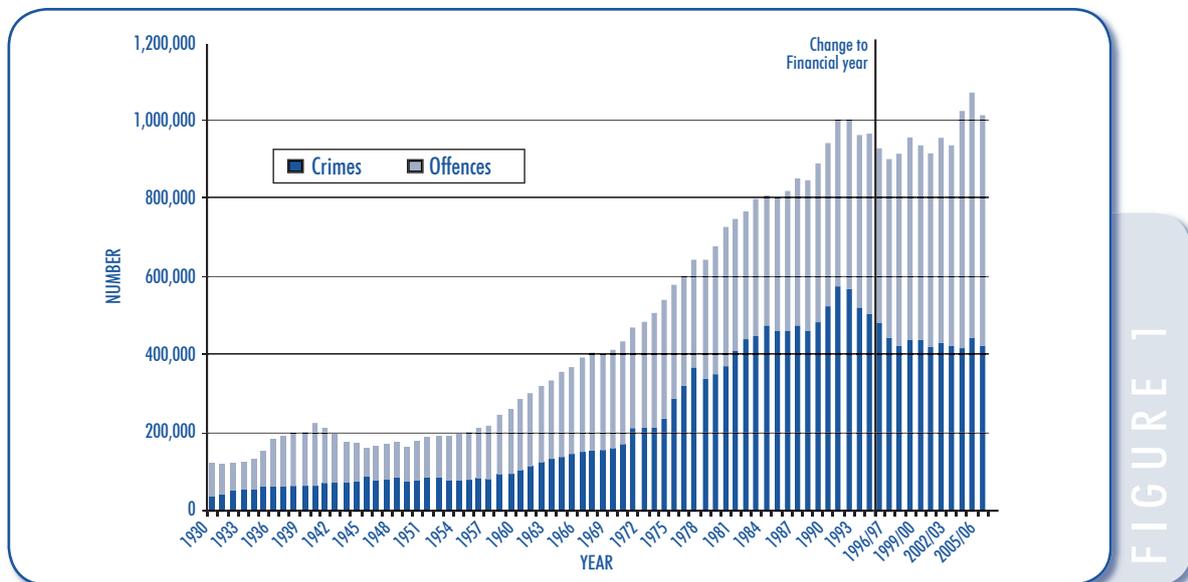


FIGURE 1

- The area with the highest number of recorded crimes per 10,000 inhabitants was Lothian and Borders with 893, followed by Strathclyde with 867.
- Aberdeen city had the highest number of crimes of domestic housebreaking at 102 for every 10,000 inhabitants followed by Edinburgh at 75 and Dundee at 62.
- The figure for Aberdeen is nearly twice that of Glasgow at 56.

Figure 2 Total number of crimes recorded per 10,000 population in 2005/06 by police force area

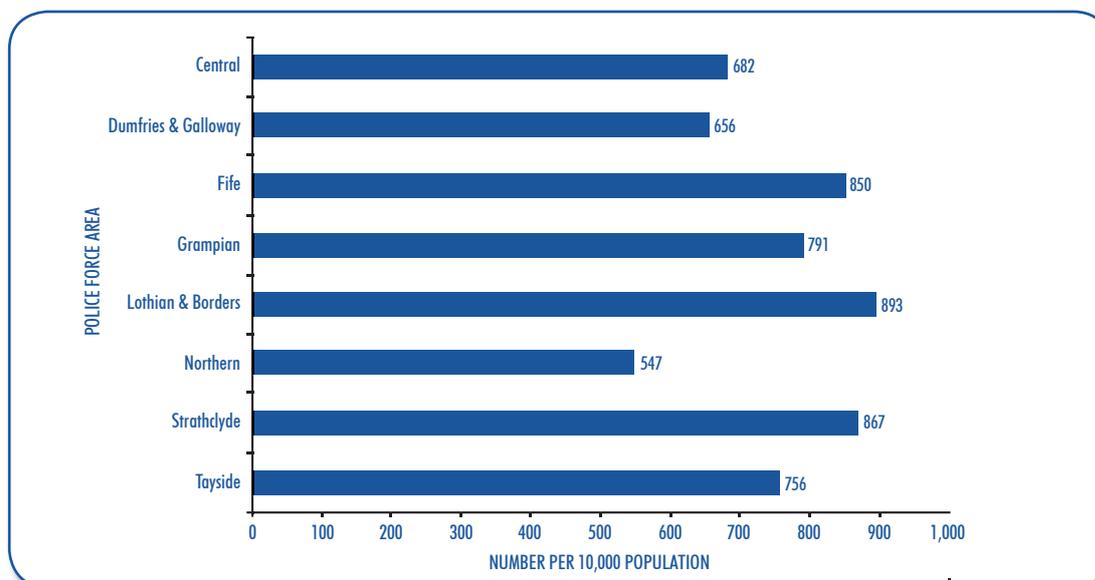


FIGURE 2

## 2. Murder rates

Murder rates are often regarded as an indicator of levels of violence in any society, since the figures for murders are held to be especially accurate.

There were 93 homicides across Scotland in 2005/6, <sup>(Ref 2)</sup> almost a third fewer than the 137 recorded in the previous year and the lowest number since 1990-91. Decreases took place in all areas except Dumfries and Galloway (number unchanged at three) and Tayside (up from four to seven). Sixty seven of the 93 homicides were in the Strathclyde Police Force area.

- The number of homicides per one million people was 18 compared with 27 in the previous year, the lowest figure for five years.
- The rate for men was 33 victims per one million compared with five per million for women.
- The age group with the highest rate of victims per million was men aged 31 to 50.

- Seventeen of the victims were reported to have been killed in an event related in some way to the illegal drugs trade.
- A sharp instrument was used in 37 per cent of the cases and hitting and kicking in 26 per cent.
- Shooting was the method in 9 per cent.

For 90 of the 93 victims an accused has been identified. Over three-quarters of the victims knew their assailant. Of the 90 cases 26 of the identified accused were relatives or a partner or ex-partner. The proportion of victims killed by a stranger or where the relationship was unknown was 22 per cent, a proportion unchanged for the past four years.

A picture of those accused in the 2005/6 cases shows that:

- Over half were men aged between 16 and 30.
- Nearly seven out of ten of them (69 per cent) were reported to have been drunk, or on drugs or both.

### 3. International comparisons

Comparing official crime rates in different countries is very difficult because of the wide variations in what is classed as a crime, and differences in reporting practices <sup>(Endnote 3)</sup>. The latest information available comes from research conducted by the EU in the 15 old member-states plus Hungary, Estonia and Poland. It is mainly based on interviews by telephone asking people about their experiences of crime. The response rate was less than half (average 48 per cent). The sample size was 2,010 people. <sup>(Ref 3)</sup>

A major flaw in the latest study is that although separate data was collected for Scotland it does not feature in the tables but only in the footnotes. In the main body of the report the figures for England and Wales, Scotland and Northern Ireland are put together to give one overall statistic for the United Kingdom and Scotland does not appear separately in the rankings. It is therefore difficult to assess Scotland's position though the data shows it is very different from England and Wales (see below).

The Scottish Executive might wish to raise this with the EU to ensure that the next time the survey is carried out figures for Scotland are disaggregated so that the outcomes for Scotland are clear.

The survey shows that on all measures of crime Scotland is around the EU average and much lower than England and Wales.

Figure 3

|                               | England & Wales | Scotland     | Northern Ireland |
|-------------------------------|-----------------|--------------|------------------|
| Overall victimisation rate    | 21.8%           | <b>13.3%</b> | 20.3%            |
| Theft of a car                | 1.8%            | <b>1.4%</b>  | 0.3%             |
| Theft from a car              | 6.0%            | <b>2.3%</b>  | 4.9%             |
| Burglary                      | 3.5%            | <b>1.5%</b>  | 1.4%             |
| Robbery                       | 1.4%            | <b>0.9%</b>  | 1.1%             |
| Sexual offences against women | 1.4%            | <b>0.9%</b>  | 1.1%             |
| Assaults with force           | 2.3%            | <b>1.7%</b>  | 3.5%             |

On a ranking of prevalence for ten common crimes Scotland is right at the average, below Ireland, the UK as a whole, Estonia, the Netherlands, Denmark, Belgium, Sweden and Poland, about the same as Germany and above Luxembourg, Finland, Italy, Greece, Austria, France, Portugal, Hungary and Spain.

### 4. More crimes solved

Police performance is often judged by how many crimes are solved of all those reported. In that respect the picture is positive.

- Clear-up rates <sup>(Ref 1)</sup> have risen from 37 per cent in 1996/7 to 46 per cent in 2005/6.
- Clear-up rates for 2005/6 were slightly up on 2004/5, rising from 45 per cent to 46 per cent.
- The clear-up rate for non-sexual crimes of violence rose from 51 per cent in 1996/7 to 59 per cent in 2005/6 and for crimes of dishonesty from 29 per cent to 37 per cent.
- The clear-up rate for crimes of indecency has fallen slightly from 76 per cent in 1996/7 to 75 per cent in 2006/6.

The clear-up rate is much higher than in England and Wales. Statistics relating to England and Wales show a figure called the detection rate for 2004/5 of 25.7 per cent. <sup>(Ref 5)</sup>

### 5. Supporting victims of crime

Helping victims and showing the community's concern for those who have suffered is an important part of any policy designed to improve human security and respect human rights.

According to information published in 2007, Scotland's coverage rates by the specialised support agencies for crime victims are the highest in the EU, with 22 per cent of victims reporting they received help. The rate for England and Wales was 17 per cent and Northern Ireland 21 per cent. The next highest was the Netherlands with 14 per cent. <sup>(Ref 3)</sup>

## 6. The sanctions system

We said in last year's review, 'Historically Scotland is a country that makes a high use of imprisonment. This high use continues.' We say it again this year.

In 2005/6 the average daily prison population in Scotland reached a new high of 6,857, the highest annual figure ever recorded and an increase of 1 per cent over 2004/5 (Ref 4). Over the past ten years the average daily prison population has increased by 14 per cent. In England and Wales, between 1996 and 2006 the number of people in prison on 30 June

increased by over 80 per cent.

Over the past ten years the number of women in prison has increased by 77 per cent compared to the rise in men prisoners of 12 per cent. However the figure for 2005/6 was almost the same as that for 2004/5 (334 women in prison on 30 June compared with 332).

The number of young offenders (those aged under 21) increased by 12 per cent.

The average daily number of prisoners on remand increased by 2 per cent to 1,242, that is 18 per cent of all those in prison.

Figure 4 Average daily prison population, 20 th - 21 st Century, financial year data from 1996/97

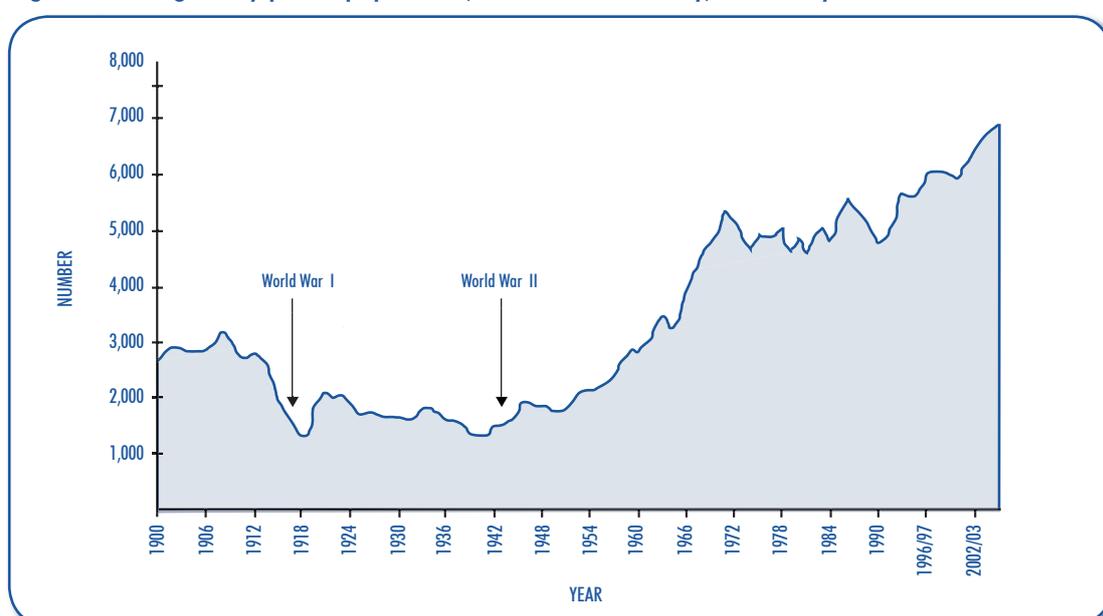


FIGURE 4

On average there were 53 people in prison every day for not paying a fine, a lower figure than the previous year. However the number of people who went through the prison system because they had not paid their fines increased from 6,098 in 2004/5 to 6,213 in 2005/6. Their average sentence length was 11 days. The average amount owed was about £280 for men and £260 for women. One hundred and thirty-seven people were sent to prison in 2005/6 for not paying fines valued at less than £50.

Also there was a large rise in the number of prisoners called back to prison because they were deemed not to be complying with the terms of their release. The figure for 2005/6 was 400 on an average day compared with 356 the previous year.

On an average day there were 24 fewer prisoners serving four years or more whilst the number serving less than four years increased by 39.

*Scotland's prisons are not full. Why? Because no matter how many people are crammed in to them, they cannot put up a "No Vacancies" sign. They have no option but to make more room somehow. Overcrowding is now so bad that every new prisoner admitted will certainly make things worse for all the others.*

*Overcrowding makes things worse for everyone: for prison staff, prison managers, and prisoners. Yet again this year the prison population has reached record levels and is maintaining record levels.*

*Nothing has been more frustrating in the writing of annual reports in 2003, 2004, 2005 and now 2006 than finding new ways to express the damage done to Scotland's prisons by overcrowding. Nothing is more illustrative of the powerlessness of the Chief Inspector of Prisons to make any real difference where it matters most. Where it matters most is in the numbers crammed inside our prisons: reducing the damage that causes is the single thing most needed in our prisons. Everyone agrees about this: but nothing changes. Andrew R C McLellan HM Chief Inspector of Prisons for Scotland, Annual Report 2005/2006. <sup>(Ref 6)</sup>*

Some areas produce more than their share of prisoners. A census of the 6,759 people in prison on 30 June 2005 showed that <sup>(Ref 4)</sup>:

- 1,540 (23 per cent) - of them came from Glasgow City region although that region holds only 11 per cent of the population.
- People from the Glasgow City area made up one quarter of remand prisoners, 26 per cent of those sentenced to six months or less, 24 per cent of those sentenced to four years or over and 27 per cent of those sentenced to life.

For women however, the highest number, 17 per cent, come from the South West Scotland area, (Ayrshire and Dumfries and Galloway) whilst 10 per cent of the female population lives in that area.

In 2005/6, 22,520 people left prison. Nearly a quarter of these had a home address in Glasgow City area.

Imprisonment rates are usually measured per 100,000 of the general population. Scotland finds itself near the top of West European imprisonment rates with a rate of 141, compared with 137 at the end of 2005.

**Figure 5 Western Europe - Prison Population Rates - per 100,000 of the national population** <sup>(Ref 7)</sup>

|                     |             |            |
|---------------------|-------------|------------|
| Luxembourg          | 2006        | 167        |
| England and Wales   | 2007        | 148        |
| Spain               | 2007        | 144        |
| <b>Scotland</b>     | <b>2007</b> | <b>141</b> |
| Netherlands         | 2006        | 128        |
| Portugal            | 2007        | 120        |
| Austria             | 2006        | 105        |
| Italy               | 2006        | 104        |
| Germany             | 2006        | 94         |
| Belgium             | 2006        | 91         |
| Greece              | 2005        | 90         |
| France              | 2006        | 85         |
| Switzerland         | 2005        | 83         |
| Sweden              | 2006        | 82         |
| Northern Ireland    | 2007        | 82         |
| Denmark             | 2005        | 77         |
| Finland             | 2006        | 75         |
| Republic of Ireland | 2006        | 72         |
| Norway              | 2006        | 66         |

Scotland has a lower proportion of women prisoners than many countries in Western Europe. In Scotland 4.6 per cent of all prisoners are women. In England and Wales the proportion is 5.8 per cent and in the Netherlands at the top of the European Union table it is 8.8 per cent. However, the proportion in Scotland is more than double that in Northern Ireland.

## Trends in prison sentencing

Trends in sentencing <sup>(Ref 8)</sup> over the last ten years show a drift towards a higher use of custody and a reduction in the use of fines.

- In 1995/6 custody was used in 10.5 per cent of cases.
- In 2004/5 the use had increased to 12.3 per cent (although was a lower figure than that for 200/1 which was 14 per cent).
- The use of fines had fallen from 71 per cent to 63.4 per cent.
- The use of community penalties had risen from 7.5 per cent to 12.6 per cent.
- More people were convicted of shoplifting, fire-raising, vandalism, handling an offensive weapon, drugs, common assault, breach of the peace and speeding.
- Fewer were convicted of serious assault, robbery, housebreaking and motor vehicle theft.

In 2004/5 the courts imposed altogether 16,531 custodial sentences and 16,952 community sentences <sup>(Ref 8)</sup>.

- The number of such sentences decreased by 7 per cent on those aged under 21 and increased by 2 per cent for those aged 21 and over.
- Over 80 per cent of all custodial sentences passed were for six months or less and over half, 55 per cent, were for three months or less.
- The average length of a custodial sentence in 2004/5 was just under seven months.
- The peak age for conviction was 18.
- Seven per cent of 18 year old males in the Scottish population were convicted for a crime or relevant offence at least once in 2004/5.
- The figure for females was 1 per cent.

Sixty per cent of robbery convictions resulted in custody, as did 49 per cent of serious assault convictions and 47 per cent of housebreaking convictions.

Local information on the sentencing practices of various courts is available. This information shows different levels of use of custody (though caution must be used in interpretation since information is not available that permits the seriousness of the offence to be compared).

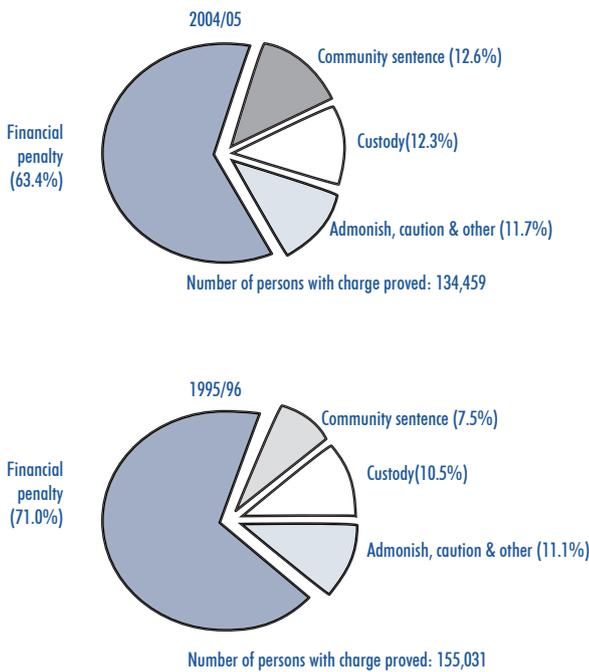
Figure 6: Custodial Sentences <sup>(Ref 8)</sup>

| Housebreaking          |           |     |
|------------------------|-----------|-----|
| Dumbarton              | (highest) | 62% |
| Alloa                  | (lowest)  | 14% |
| Theft                  |           |     |
| Oban                   | (highest) | 48% |
| Duns                   | (lowest)  | 9%  |
| Dishonesty Offences    |           |     |
| Greenock               | (highest) | 33% |
| Elgin                  | (lowest)  | 3%  |
| Assault                |           |     |
| Wick                   | (highest) | 56% |
| Oban                   | (lowest)  | 2%  |
| Overall Use Of Custody |           |     |
| Greenock               | (highest) | 21% |
| Stonehaven             | (lowest)  | 3%  |

## The other penalties – trends

The most used penalty of the court is the fine though its use has been dropping steadily. In 1994 71.8 per cent were fined. In 2004/5 the percentage had dropped to 63.4 per cent, a drop from two percentage points from the year before. <sup>(Ref 8)</sup>

**Figure 7 Penalties imposed in Scottish Courts in 2004/05 and 1995/96** (Ref 9)



Other available penalties are community sentences, that is probation orders, community service orders, supervised attendance orders, drug treatment and testing orders and restriction of liberty orders.

**Figure 8 Changes in use of community sanctions between 2004/5 and 2005/6** (Ref 9)

|                                     | 2004-5 | 2005-6 | % change |
|-------------------------------------|--------|--------|----------|
| <b>Community service orders</b>     | 5,573  | 5,927  | +6%      |
| <b>Probation orders</b>             | 8,402  | 8,465  | -1%      |
| <b>Supervised attendance orders</b> | 2,385  | 3,849  | +15%     |
| <b>Drug treatment and testing</b>   | 524    | 599    | +14%     |
| <b>Restricted liberty order</b>     | 917    | 948    | +7%      |

How successful are these orders? Three out of four probation orders and community service

orders and nine out of ten supervised attendance orders are completed successfully. Furthermore, not all of those that end up back in court for some reason are an indication of failure. In most of them the court changes the conditions of the order or agrees it should continue.

**Figure 9 Orders brought back to court for breach proceedings** (Ref 9)

| Order                             | 2004/5 | 2005-6 |
|-----------------------------------|--------|--------|
| Probation orders                  | 2,769  | 3,375* |
| Community service orders          | 1,498  | 1,502  |
| Drug treatment and testing orders | 549    | 599    |
| Restriction of Liberty orders     | 770    | 986    |
| Supervised attendance orders      | 1,084  | 1,462  |

\*(much of the change probably due to changes in recording practice in Glasgow)

**Figure 10 Local information on the use of community orders** (Ref 9)

|  |                       |
|--|-----------------------|
| <b>Community service order</b>           |                       |
| Highest use per 10,000                   | Glasgow 22.1          |
| Lowest use per 10,000                    | Northern 10.3         |
| <b>Probation orders</b>                  |                       |
| Highest use per 10,000                   | Glasgow 35.4          |
| Lowest use per 10,000                    | Nth Strathclyde 17.2  |
| <b>Supervised attendance orders</b>      |                       |
| Highest use per 10,000                   | Glasgow 33.00         |
| Lowest use per 10,000                    | Lothian & Borders 2.7 |
| <b>Drug treatment and testing orders</b> |                       |
| Highest use per 10,000                   | Tayside 8.9           |
| Lowest use per 10,000                    | Lanarkshire 1.6       |

**Figure 11 Changes in the use of community sanctions 2001/2 to 2005/6** <sup>(Ref 9)</sup>

| Rate per 10,000 population in Scotland |        |        |
|--|--------|--------|
| Order                                  | 2001/2 | 2005/6 |
| <b>Community service orders</b>        |        |        |
|  | 12.8   | 16.4   |
| <b>Probation orders</b>                |        |        |
|  | 19.8   | 23.2   |
| <b>Supervised attendance orders</b>    |        |        |
|  | 7.6    | 10.6   |

Figure 10 shows very wide differences in the use of community orders which may merit further analysis. Figure 11 shows clearly the increase in the proportion of the Scottish population subject to criminal sanctions and measures.

## Diversion from prosecution

Diversion from prosecution can take place when the accused admits guilt and the Procurator Fiscal deems it is in the public interest not to prosecute but to take some other action that is more likely to solve the underlying problem that led to the offence. It is an important measure as it keeps people out of the criminal justice system and ensures they do not get a criminal record. We note that its use has scarcely increased since it was rolled out nationally in 2002/3.

**Figure 12 Cases of diversion per year** <sup>(Ref 9)</sup>

|        |             |
|--------|-------------|
| 2002/3 | 1,015 cases |
| 2003/4 | 1,340 cases |
| 2004/5 | 1,064 cases |
| 2005/6 | 1,198 cases |

**Figure 13 Use of diversion by Community Justice Authority area per 10,000 of the population** <sup>(Ref 9)</sup>

|                                 |     |
|---------------------------------|-----|
| Highest use Lothian and Borders | 8.4 |
| Lowest use Glasgow              | 0.2 |

## 7. Reforms to the system

In his report for 2005/6 the Chief Inspector of Constabulary, Andrew G Brown, included some helpful explanatory paragraphs on the role the police have in relation to the overall level of crime and how that role can be overestimated. He made it clear that the overall level of crime will relate to other aspects of policy. He said:

'As HMIC has previously observed, the incidence of crime in its totality is not a measure of police performance... It will inevitably take some time to change the perception that the total incidence of crime is an accurate measure of police performance. But it is important to change this commonly held belief so that the police, the public they serve, and the bodies who assess policing can focus on the realities of policing: public reassurance, investigating crime; helping victims and those at risk of harm; and supporting the criminal justice system.'<sup>(Ref 10)</sup>

The implications of the Chief Inspector's comments are that to cure crime more is needed than the activity of the criminal justice system. This view was echoed by David Strang, who on talking about his appointment in 2007 as Chief Constable of Lothian and Borders Police said 'I'm chair of the Alcohol and Drug Action Team in Dumfries and Galloway and that has given me an understanding of the issues. The police cannot tackle this alone and it can't just be our job to lock people up. We need to go to the root of the problems. That may come through education, raising awareness and working with health services.'

This understanding was illustrated in a practical way in 2006 by two new developments. One is the extension to the whole of Scotland of the Violence Reduction Project of Strathclyde Police. In March 2006 the Violence Reduction Unit became a national centre for violence prevention and a year-long campaign to tackle specific types of violence was launched. At the launch John Carnochan, Head of the Violence Reduction Unit, said:

'For decades the police in Scotland have reacted to all types of crime, and in the main we are good at that - a crime is reported, we investigate and we detect the offender. In recent years there have been welcome reductions in many areas of crime. Our detection rates in Scotland for all types of crime are the envy of many

Forces elsewhere... Yet, we have been taking this approach for decades - and despite slight reductions along the way - levels of violence have remained relatively constant for the past four decades.'

Therefore, he said, we need 'to focus our collective energies towards identifying and addressing some of the causes of violent behaviour, rather than treat only the symptoms. We want to try and prevent violence from happening in the first place.'<sup>(Ref 11)</sup>

## Community Justice Authorities

The second development is a restructuring of the machinery for dealing with those who are in trouble with the law. Eight Community Justice Authorities were set up across Scotland in March 2006. They bring together local councils, the Scottish Prison Service and other local justice, health, education and housing bodies to work in partnership. This revolutionary development means that for the first time there will be a body dealing with offenders who should be strategic agents of change in their areas. The new bodies will be required to consider what the community thinks and what it wants from criminal justice. Also, for the first time the prisons are to be involved in wider community considerations.

## Women in the criminal justice system

In our last review we expressed concern about the inappropriate use of imprisonment for women and mentioned the hopes that the groundbreaking 218 Centre in Glasgow would make an impact. The Centre provides residential and non-residential support for women with multiple problems and involvement in drug-taking. In May 2006 the first evaluation of the Centre was published and presented a very positive picture.

<sup>(Ref 12)</sup>

*One woman told the researchers:*

*...218 saved my life. It really saved my life, because I don't think I would be here anymore .....*<sup>(Ref 13)</sup>

*When asked if the impact would last after they left the project a woman said:*

*...I think it will...obviously I could probably have a lapse, because everybody could go through a bad time in their life, because I used to think I wasn't good enough to lead a good life, and I didn't think I could do it ...I think this time it will work. You have got to want to do it and I do, I want to do it.*<sup>(Ref 14)</sup>

## Drug Courts

The introduction of new approaches through pilots and their subsequent evaluation to assess their worth is an approach with much to commend it. In addition to the evaluation of the 218 project the Scottish Executive's experiment with special courts to deal with convicted people who use illegal drugs has also been evaluated. A pilot Drug Court was introduced at Glasgow Sheriff Court in November 2001 and a second pilot started in Fife in August 2002. The Drug Courts deal with people who are involved in crime because of their use of illegal drugs. The Courts try to change their situation by providing access to treatment and other services, ongoing supervision and judicial oversight of orders. Substitute prescribing (using methadone) constituted the core element of the treatment service.

The evaluation found that the relationship set up between sheriffs and the convicted people helped to encourage, motivate and at the same time sanction those who were on orders. The results were encouraging:

- In Glasgow, 47 per cent of those under court orders completed them.
- The rate in Fife was 30 per cent.
- In both Glasgow and Fife there was a steady decrease over the course of an order in the proportions of those testing positive for opiates and benzodiazepines.
- Despite their long criminal histories, 50 per cent of those under the court had

not been convicted of another crime or offence within one year.

- 29 per cent remained free of convictions for at least two years.

## 10. Dealing with children in trouble

In this section we look at how far Scotland's arrangements for dealing with children in trouble are within the framework set by the Convention on the Rights of the Child. In last year's review we noted that 'for over thirty years Scotland has had a progressive and child-centred system for dealing with troubled and troublesome children that is very different from the system in England and Wales'.

Scotland has therefore avoided much of the criticism and difficulty that has beset the system south of the border.

However, there are areas where questions arise about Scotland's observance of the Convention on the Rights of the Child. For example, the Chief Inspector of Prisons reports that in 2004/5 there were 18 children held in prison. In 2005/6 the number had risen to 24. They were all boys and although most were held for only a few days one spent 105 nights in prison, and another 34. The youngest was 14 years and three months old (although he was removed from Polmont before he had spent a night there). There were two other 14 year-olds, one of whom spent five nights in Polmont and one four nights. The Chief Inspector concludes 'prison is no place for a child'.

In October 2004 it became possible in Scotland to impose Anti-Social Behaviour Orders on children aged 12 – 15. In 2005/6 four ASBOs were made on children aged between 12 and 15, two in Edinburgh, one in Dundee and one in Renfrewshire. <sup>(Ref 15)</sup> Unlike in England and Wales breaches of such orders cannot lead to imprisonment for children.

## 11. Human rights and accountability

The Scottish Human Rights Commission Act was passed by the Parliament on 2 November 2006. The Act establishes a Scottish Commission for

Human Rights to promote human rights as set out in the Human Rights Act 1998 and in all the other international human rights instruments that the UK is a party to. Scotland will thus join Northern Ireland as the other UK jurisdiction to have a national human rights commission.

The state of the prisons in any country is a good indicator of how far it takes seriously its human rights obligations. Although Scottish prisons are seriously overcrowded the treatment of prisoners within them is humane and respectful. It is indeed remarkable, as the Inspector of Prisons, Andrew McLellan, says in his most recent report that when prisoners are asked the question 'How do you rate relationships with staff in your prison?' the number of prisoners who reply 'ok or better' is 97 per cent.

The public's watchdog over prisons is the Chief Inspector. In 2006 the Chief Inspector published the standards by which the Inspectorate will judge prisons. These standards are specific to the Scottish prisons inspectorate and are based on international human rights standards and good practice.

The police service needs to be accountable. In 2006 Mr Jim Martin was appointed as Scotland's first Police Complaints Commissioner. The new Commissioner, who will begin work on 1 April 2007, will provide independent scrutiny of the way the police handle non-criminal complaints from the public. He will also have powers to direct police forces to re-examine any complaints that he considers have not been dealt with properly. Investigations of criminal allegations about the police will continue to be handled by area procurators fiscal.

## 12. Substance abuse and crime

Drug and alcohol abuse is at the base of much of the activity of the criminal justice system.

Figure 14 Children referred to the Children's Reporter on grounds of misuse of alcohol or drugs

|  | 2002/3 | 2004/5 | 2005/6 |
|--|--------|--------|--------|
|  | 1,854  | 1,369  | 1,426  |

Many of those in prison have drug and alcohol problems:

- 29 per cent of respondents to the 2006 Prison Survey reported use of illegal drugs in the previous month.
- 3 per cent of respondents to the 2006 Prison Survey reported injecting drugs in prison in the previous month.
- Of those who had injected in the last month (111 prisoners), 71 per cent reported sharing injecting equipment.

Of the prisoners reporting use of illegal drugs in the 2006 Prison Survey 72 per cent reported use of heroin in the previous month. 70 per cent reported use of cannabis and 43 per cent use of benzodiazepines. Over a quarter (27 per cent) reported using other opiates (other than heroin and methadone) while smaller proportions reported cocaine (19 per cent), methadone (without prescription) (18 per cent), temazepam (13 per cent), ecstasy (10 per cent) and amphetamines (7 per cent).

Changes have been introduced into the way the prison service approaches drug and alcohol problems. In 2005 the Addictions Testing Measure (ATM) was introduced, replacing Mandatory Drug Testing (MDT). ATM is carried out on 5 per cent of the prison population, three times per year. The results are anonymous and cannot be attributed to the individual tested. This contrasts with the previous system of MDT for which tests were carried out monthly on 10 per cent of the prison population and were attributable to specific prisoners, with penalties for positive results. By making the results of the new measure anonymous, prisoners who had taken drugs did not attempt to conceal the fact. This measure is designed to better inform the interventions required for prisoners, rather than punishing them.

## 13. Public attitudes to crime and confidence in the system

Last year we reported the findings of the Scottish Crime Survey on the public's view of how safe they felt and how important they saw crime being as an issue in their lives. There are no new results of the Scottish Crime Survey (now called

the Scottish Crime and Victimization Survey) until the end of 2007 but information is available from the Scottish Social Attitudes Survey, carried out in 2005 and published in 2006.

The study found that the people's top three priorities for the Scottish Executive were:

- Improving people's health (26 per cent)
- Cutting crime (23 per cent)
- Helping the economy to grow faster (18 per cent)

There were differences in view between ages.

Of 18 - 24 year olds 19 per cent put cutting crime as their first priority whereas amongst those over 65 it was 37 per cent. Crime was of more concern to people with no higher education (33 per cent put it first) compared with 17 per cent of those with higher education.

## 14. Using resources to best effect

Considerable resources are devoted to criminal justice.

**Figure 15 The cost of the criminal justice system in 2004/5 was £1,650,580,000** (Ref 16)

|  | In millions |
|--|-------------|
| Police                                   | £977        |
| Scottish Prison Service                  | £343.2      |
| Crown Office and Procurator Fiscal       | £83.9       |
| Criminal Justice Social Work             | £74.4       |
| Criminal Injuries Compensation Authority | £20.6       |
| Scottish Court Service                   | £34         |
| District Courts                          | £6.38       |
| Secure accommodation for children        | £3.1        |

It is instructive to look at the typical cost of each penalty.

Figure 16 Cost per penalty

| Penalty   | cost    |
|---|---------|
| Six months in prison                                  | £16,342 |
| Probation order<br>(average cost of a standard order) | £1,157  |
| Community service order<br>(average cost)             | £1,432  |
| Drug treatment and )<br>testing order (average cost   | £9,270  |
| Supervised attendance<br>order (average cost)         | £410    |
| Restriction of liberty order<br>(average cost)        | £9,000  |

Clearly then imprisonment is the most costly choice. Since we last reported work has started on a new 700-bed prison at Addiewell in West Lothian. With the commissioning of Addiewell prison Scotland will have 1,400 prisoners in private prisons. Assuming the prison population is not much higher than it is today, and there have been no significant changes in the figures of other countries, Scotland will then have 20 per cent of its prisoners in private prisons, the highest percentage of any country in the world.

It has been estimated that the overall cost of Addiewell over 25 years will be between £738 and £1,152 million. Low Moss prison is being replaced with another 700-bed prison and there is talk of a third prison. Even those building programmes will fail to meet the need if the results of the Custodial Sentences and Weapons Bill are as predicted. The new arrangements are estimated to increase the prison population by 1,100, a 16 per cent increase on the daily average population for 2005/6. Extrapolating from current expenditure, the annual prisons budget will need to increase by £64 million. This money could have bought 1,923 year long drug treatment places, 1,745 year long mental health treatment, 2,206 more social workers employed.

Figure 17 Percentage of prisoners held in private prisons

| Country                    | Date   | Percentage |
|----------------------------|--------|------------|
| Australia (overall)        | 2003   | 17.8       |
| South Africa               | 2004   | 3.2        |
| United States              | 2005   | 6.7        |
| England and Wales          | 2004   | 9.1        |
| Scotland                   | 2004   | 9.0        |
| Scotland with<br>Addiewell | (2009) | 20.0       |

## References

- Ref 1 Scottish Executive, Recorded Crime in Scotland 2005/06 Statistical Bulletin, CrJ/2006/6. Edinburgh, September 2006.
- Ref 2 Scottish Executive, Homicide in Scotland, 2005/06 - Statistics Published. 026481178. Edinburgh, November 2006.
- Ref 3 The Burden of Crime in the EU Research Report: A Comparative Analysis of the European Crime and Safety Survey (EU ICS) 2005, Gallop Europe; UNICRI, Italy, Gallop Hungary, the Max Planck Institute, Germany, CEPS/INSTEAD, Luxembourg and Geox Ltd.
- Ref 4 Scottish Executive, Statistics Bulletin. CrJ/2005/8, Prison Statistics Scotland. Edinburgh, 2004/05.
- Ref 5 Report of Her Majesty's Chief Inspector of Constabulary 2004/5, HC 842. London. The Stationery Office, 2006.
- Ref 6 Scottish Executive, HM Chief Inspector of Prisons for Scotland: Annual Report 2005/06 Justice Department. Edinburgh, November 2006.
- Ref 7 International Centre for Prison Studies, King's College London. World Prison Brief Online ([www.prisonstudies.org](http://www.prisonstudies.org))
- Ref 8 Scottish Executive, Criminal Proceedings in Scottish Courts 2004/05, CrJ/2006/3. Edinburgh, April 2006.
- Ref 9 Scottish Executive, Criminal Justice Social Work Statistics, 2005/06. Statistical Bulletin, CrJ/2007/02. Edinburgh, January 2007.
- Ref 10 Her Majesty's Chief Inspector of Constabulary for Scotland, Annual Report 2005/6. Edinburgh, The Stationery Office, November 2006.
- Ref 11 "Anti-violence campaign begins" Scottish Executive News Release, 27/03/2006.
- Ref 12 Scottish Executive, Crime and Criminal Justice Research Findings No. 81/2005 The Operation and Effectiveness of the Scottish Drug Court Pilot. Gill McIvor, Lee Barnsdle, Susan Eley, Margaret Malloch, Rowdy Yates, Alison Brown. Edinburgh, March 2006.
- Ref 13 Ibid.p.72
- Ref 14 Ibid.p.77
- Ref 15 Scottish Executive, Use of Antisocial Behaviour Orders in Scotland: Report of the 2005-06 Survey. Edinburgh, 2006.
- Ref 16 Scottish Executive, CP (S)a section 306: Costs, Sentencing Profiles and the Scottish Criminal Justice System 2004/05. Edinburgh, November 2006.

## Endnotes

1. Not all agencies publish their statistics at the same time so in some cases we are giving information for 2004/5 rather than 2005/6. However this should not distort our conclusions.
2. Recorded crime covers only those incidents reported to the police or coming to police attention in some way. Many incidents that could be defined as crimes are not reported or not recorded, though the more serious an incident is, the more likely it is that it will be reported and recorded.
3. The European System of Social Indicators, Social Indicators Department, Mannheim, Record of crime cases that came to police notice per 100,000 inhabitants includes the following note: 'The statistics cannot take into account the differences that exist between the legal definitions of offences in various countries, of the different methods of tallying, etc; consequently, the figures used in these statistics must be interpreted with great caution; in particular, to use these figures as a basis for comparison between different countries is highly problematic.'