

# scottish justice matters

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## POVERTY, INEQUALITY AND JUSTICE



# Fairer Justice: a vision for Scotland

This is an edited version of the Apex Lecture given by **Michael Matheson MSP**, Cabinet Secretary for Justice in September 2015.

**IT'S MY** pleasure to use this opportunity to lay out my vision of fairer justice for Scotland.

My previous role was Minister for Public Health. I am struck by what the health service and the justice system have in common: our most deprived communities are those most likely to experience poor health and high levels of crime. If we are to be effective in reducing the number of people coming into contact with the criminal justice system, we need to focus on tackling social inequality. A fairer justice system recognises that, in order to deliver the best possible outcomes for the people of Scotland, we must consider the needs of *all* the people of Scotland. It also recognises that people with convictions, especially people who have served a custodial sentence, are not only likely to carry with them the scars of social inequality, but also to experience further discrimination as they attempt to reintegrate into their communities. That is why my vision is one which reflects the values of a modern and progressive nation in which prison, in particular short-term imprisonment, is used less frequently as a disposal: and where there is a stronger emphasis on robust community sentences focused on addressing the underlying causes of offending.

In Scotland, for every 700 people in the community there is one person in prison. In Ireland that figure is one person in 1200; in Denmark, Norway and Finland that number goes up to over 1600. There is no good reason why Scotland should have such a high prison population. Of course, for people who have committed the most serious offences and those who pose a risk to public safety, prison remains absolutely necessary. For too long prison has been seen as the default sentencing option, with community sentences too often being portrayed as the soft option. We need to reframe this debate and we need to start asking ourselves important questions about what the role of prison actually is.



When I was appointed, practically the first paper on my desk was to sign off on the new women's prison HMP Inverclyde. The decision I took to not proceed was not one that I arrived at lightly. It was borne out of my desire to use the opportunity to make that step change that I believe we had previously been missing. In politics those opportunities come along all too rarely. I said at the time that we needed to be bolder and more ambitious; that we needed to be smarter with the choices we make; and more sophisticated in the way in which we deal with female offenders.

## We have the opportunity to develop a truly world leading penal policy for women

I took the time to understand the issues in more detail and to engage with national and international experts. I believe that the arrangements that we are planning to take forward offer the best support, appropriate to the needs of women, to help them maintain links with their communities. A review of women's community justice services found that the provision of a flexible and holistic approach can help women to make positive changes in their lives and tackle the underlying issues behind their offending behaviour (Scottish Government, 2015a). It is exactly this type of tailored wrap around service that I want to see provided in the custodial estate.

We have the opportunity to develop a truly world leading penal policy for women. But this isn't just about women: the steps we have started to take in relation to the female custodial estate can pave the way for a different custodial approach for all offenders.

## Reducing short sentences

Short prison sentences simply do not work in terms of rehabilitating offenders or reducing the risk of their reoffending. They disrupt families and communities and greatly affect employment opportunities and stable housing: the very things that support desistance. There is even evidence to suggest that by weakening social bonds and decreasing job stability these sentences can increase long term reoffending. That is clearly not a good use of public resources, and it is a waste of human potential.

There are several important drivers to reducing the use of short sentences. The availability of robust community alternatives is a critical element. However, equally important are legislative mechanisms to influence sentencing decisions. The presumption against sentences of three months or less has been in place since 2011. In practice, it has had little impact on sentencing decisions. Our consultation on proposals to strengthen the presumption (Scottish Government, 2015b) seeks responses on two main points:

- ❖ should the current presumption against sentences of three months or less be extended and, if so, by how much?
- ❖ is a more radical review of the presumption against short sentences required?

We should not overlook the things we can already do. One of the obvious ways in which we can start to look at alternatives is in the use of electronic monitoring (EM). We currently monitor around 800 people, two-thirds of whom are serving community based sentences, with the remaining one third transitioning from custody to the community. We can, and should, do more to increase this. In 2013/14 *nine times* as many people received custodial sentences of less than six months as were issued with restriction of liberty orders.

## I want to see a Scotland in which very real improvements have been made in the use of custody for both men and women

Evidence from other countries shows that EM can help people to maintain connections with their family, their community and their employment. EM should no longer be seen as an end in itself, but one which, when set against a wider package of care, can be used as part of a credible, effective community sentence.

Community Payback Orders require people who have committed offences to repay communities for the damage caused. Where appropriate, they can combine this unpaid work with structured intervention programmes to tackle the underlying causes of behaviour. I believe they represent the kind of robust community alternative that can carry the confidence of the public.

## Custodial estate

Any changes to the way in which we view and use the custodial estate will not just be about the bricks and mortar. There will also be an impact on the people who work within our prison estate. We can - and should be - rightly proud of the staff who work in our prisons day in, day out. Prison remains necessary for people who have committed the most serious offences and those who pose a risk to public safety. The education, training and support they receive must all lead to the very best chance of rehabilitation and desistance from offending.

The SPS recognises that it has a key role to play in creating opportunities in custody to help offenders transform their lives, by helping those who want to change, and by making that decision easier for them. The new model for the female custodial estate will also assist us in creating that change. In examining the question of how prison sits within the community, it will also look at the role of prison staff. We also need to remember that any change to the custodial estate can not happen in a vacuum: there is a need for change in the wider justice system too.

## Strategy for community justice

The Scottish Government and partners are working to implement the new model for community justice: a model which has been designed to deliver a community solution to achieving improved outcomes for community justice; to reducing re-offending; and to support desistance from offending. Collective responsibility, through a partnership approach, will be vital to its success. A new National Strategy for Community Justice, will provide us with a coherent vision to facilitate and drive improvement. A new body, Community Justice Scotland, will be established in April 2017 and will work closely with community justice partners, the Third Sector and a range of other parties to provide support and leadership. Its Chief Executive will be tasked with championing the role of community justice on a parity with that of our custodial estate. It will bring enhanced opportunities for innovation, for the promotion of learning and development and will provide assurance to Scottish Ministers and local government on the delivery of improved outcomes for community justice.

I want to start laying the building blocks of a penal system which reflects the values of a modern and progressive nation. Change does not happen overnight. Each step needs to carry with it the confidence of the people who will be affected, from colleagues in social work and the prison service, through those on the bench, to the wider public. What I can do today is to signify my intent, by changing the tone of the debate, to bring about a new approach. I want to see a Scotland in which very real improvements have been made in the use of custody for both men and women; an appreciably smaller prison population, and a Scotland in which we have redefined what custody looks like.

Read the full text here: [apexscotland.org.uk/wp-content/uploads/2015/09/apex\\_annual\\_lecture\\_2015\\_LoRes.pdf](http://apexscotland.org.uk/wp-content/uploads/2015/09/apex_annual_lecture_2015_LoRes.pdf)

Scottish Government (2015a) *Evaluation of Sixteen Women's Community Justice Services in Scotland* gov.scot/Publications/2015/09/5053

Scottish Government (2015b) *Consultation on Proposals to Strengthen the Presumption against Short Periods of Imprisonment* gov.scot/Publications/2015/09/8223



# **CRIME, JUSTICE AND SOCIETY IN SCOTLAND**

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